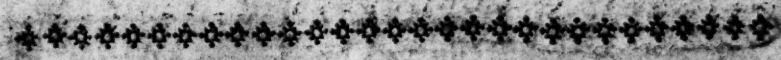




Just Publish'd the 2d Edition of

A LETTER TO THE HONOURABLE
on the Occasion of his suppos'd late
(said to be deliver'd at Cam-
BRIDGE **ENGLISH CONSTITUTION**
to what is therein urg'd against, Frequent
Commission, and for the proposed Episcopal
Religious, and Civil, Liberty Great
Poland, and Prussia: By the Author of this
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A LETTER to the Bishop of ELY, upon the Occasion of his suppos'd late CHARGE (said to be deliver'd at Cambridge, August 7th, 1716) as far as relates to what is therein urg'd against, *Frequent Communion*; and for the pretended Episcopal Reform'd Churches of *Transylvania*, Great *Poland*, and *Prussia*: By the Author of this Book. Sold by the Booksellers: Price Six Pence.

THE 1471 g 15 (2).
OLD ENGLISH
CONSTITUTION
VINDICATED,

Earbery (Matthias)

And Set in a

TRUE LIGHT.

Offer'd to the Consideration of the
Bishop of BANGOR:

WITH AN
APPENDIX,

Containing some
Reflections upon his Lordship's Candor,
Sincerity, Erudition, and strong Reason-
ing in his *Preservative*: Or, *Appeal to*
the Christian Laity.

By M. F.

If you take away the Law, all Things will fall into Confusion, every Man will become a Law unto himself, which in the deprav'd condition of Humane Nature, must needs Produce many great Enormities. Lust will become a Law, and Envy will become a Law, Covetousness and Ambition will become Laws; and what Dictates, what Decisions such Laws will Produce, may easily be discern'd. *Pym's Speech against the Lord Strafford.*

LONDON: Printed in the Year, M. DCC. XVII:
(Price Two Shillings.)

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PREFACE.

THE Loud Pretences a Party in this Nation continually make to Liberty and Property, the Laws and Constitutions of their Country, have provok'd me to search whether Reason or Noise is most on their side, in this search I confirm'd my self every step I went, more strongly in my Opinion, that these Men acted and thought Diametrically opposite to the Good of their Country, that they offer'd the greatest Violation to the Laws of God and Men in their Notions of Government.

The Word Parliament made such a terrible sound as wou'd Intimidate a Person of small Resolution and Courage, and make him forego the Argument even thro' Fear. A Stranger to the Controversy wou'd Imagine, that Parliaments were as Antient at least, as the Flood, and that a House of Commons was preserv'd in Noah's Ark: But alas, I found their Power, and their Being of a much later Date. They were rais'd by our Kings to Ballance a House of Lords, and may, for ought I know, be a very August Body. But however, the Lords were before 'em, and Kings before 'em all.

I cannot find any Reason to think the Commons were call'd before Henry 1st. who was

undoubtedly an Usurper. But then, as Sir Robert Filmer has observ'd, only a confus'd Number were suffer'd to come. But the Regular sending Members by Election and the King's Writ, did not Commence till Henry 3d.

The House of Lords was much more Antient, and was call'd the Great Council of the Nation, and the Council of Barons, which consisted of Temporal Lords and Bishops.

Those therefore who strenuously assert the Antiquity of Parliaments, and fix 'em to the time of William the Conquerour, if not higher; I say, these Men must either prove the Commons were in Parliament before Henry 1st, or they must grant that an House of Commons Antiently was not essential to a Parliament, and that the House of Lords was such without them.

But if we Examine what these Lords were in whom are suppos'd to be the Supream Power of the Nation, even they were the Creatures of the King, they were Created by him, and enjoy'd all their Honours and Privileges by his Favour: So that to assert the Superiority of such a Parliament, is absurd, and this Argument alone is sufficient to prove Kings to be more Antient than Parliaments, who were only call'd together by himself.

If we Recur to Antiquity, we shall find that the Clergy form'd one of the States of the Kingdom, and were call'd to Consult in Cases

Cases of Emergency, when a House of Commons had no Being.

Nor were they distinguish'd with the Characteristics of the Supream Power, when 39 Members of that House were Prosecuted by Indictment in the King's Bench, for Departing without License from Parliament in Defiance of the King's Prohibition. This was 1, 2, of Philip and Mary; the Substance of the Information I shall give the Reader in English, because it will contribute to clear the Dispute: We find in the Institutes p. 4. c. 1. The Information was drawn up by the King's Attorney: That whereas a Parliament of our Sovereign Lord and Lady was then held at Westminster, in the First and Second Year of their Reigns, in which it was forbid by our Lord and Lady, in the same Parliament, that any Person there-to Summon'd shou'd not depart from Parliament without Special Leave or License from our said Lord and Lady; nevertheless, certain Persons, viz. Thomas Denton, de Com. Ox. &c. were Summon'd to the said Parliament; but in Contempt of our said Lord and Lady, and of the good of their Country, they departed from the said Parliament without Leave or License from our said Lord and Lady, to the great Detriment of this Kingdom, and have given thereby an ill Example to Posterity; the Attorney demands that a legal Process shou'd be Issu'd forth to make

the said Thomas Denton, &c. Answer before our Lord and Lady for the said Contempt.

To this Edmund Plowden who was in the Information pleaded, that he was present in that Parliament in which it was alledg'd that he was absent.

Sir Edward Cokes Observation upon this Matter was thus.

' You may Observe that the poor Commons, Members of Parliament in Diebus illis had no great Joy to continue in Parliament.

Sir Robert Filmer observes, that the Parliament in Ancient Times were Maintain'd by the King, and Fed at his Table.

An Old Whig who pav'd the Way for the ill Notions which have prevail'd in this Kingdom, in his Book call'd, Plato Redivivus, has given but a very mean Account of an House of Commons Original; He says most of the Members thought it an Honour to retain to some Great Lord, and to wear his Blue Coat, and when they had made up their Lord's Train, and Waited upon him from his own House to the Lord's House, and made a Lane for him to Enter, they departed to Sit in the Lower House of Parliament; see Antidotum Britannicum, p. 77.

The Antiquity of the House of Peers is beyond dispute. The Saxon Kings in their Lawes mention them by the Name of Sapientum & Magnatum Concilium. But as to
any.

any real Authority, I cannot see that they enjoy'd the least shadow thereof; the Saxons came over with their Swords in their Hands, their Chief Commanders made themselves Kings, and if they Constituted Guardians and Conservators over themselves, they were little better than Fools.

But however, we must Date our Constitution from William the Conquerour, from him we receiv'd our Laws and Model of Government, but he made the Kingdom a perfect Property, he gave it by Will to the Younger Son, and Excluded the Elder without any Intervention of the States, nor was his Title ever Question'd by the People, nor can any Instance be given till very lately, of any popular Election, Usurpers have thrust themselves into a Throne, but they have alwaies had the pretence of Hereditary Right, none ever car'd for a Title which they ow'd to the Election of a Multitude.

'Tis the Unhappyness of Mankind, that ever since the Creation of the World they have been led into Errour by not setting a right Signification upon Words: They have not yet settled an absolute Agreement between Ideas and Words, which are, and ever will be, engag'd in an Eternal War. I believe Mankind wou'd not be a little Improv'd with a Treatise of that Nature, to shew what confusion that Dissention has made amongst them.

For

For Example, the Word King has set this Nation together by the Ears, from the very Time that the Word has been known within the Realm, because we have not adjusted our Idea with the Word, if we mean by King, one that has the Supream Power of the Nation, we Reduce a large Ocean of Dispute into a very narrow compass, viz. Whether the Supream Power can be Resisted or no, if the Supream Power may be Resisted, consequently, any Inferiour Power may be Resisted in Society; and therefore, no Magistrates are secur'd from having their Brains regularly knock'd out by the People.

If the King is only a Branch of the Supream Power, we must find out the other Branches, and set them all in a fair Light; are they the House of Lords or Commons, or both together? If so, let any Man shew me the Supream Power after the Dissolution of the Houses. Let them shew me one Mark of Superiour Power which the King does not then Enjoy, and I will shew twenty which they cou'd never pretend to.

But granting even this, the Question receives a new turn, Whether England is a Monarchy or not? Whether it is distinguish'd by any signal Criterion from the Commonwealth of Sparta.

How much we have the Advantage from Law and History I need not here say.

Our

Our Kings ever shin'd with peculiar Privileges which manifestly distinguish'd them from the States of the Realm, and plac'd 'em in an higher Sphere; the Neighbouring Princes who fell under their Power, did Homage to them alone, without any mention of the States of the Realm, or the Parliament; particularly, Robert Count of Flanders, did Homage both for Life and Limb to Henry the 1st, only with a Reservation to the Right of Lewis of France, to whom he was immediately Subject. The Words are, Robertus Comes Flandriae fide & sacramento affecuravit Regi Henrico Vitam suam & Membra, & Membra quae Corpori suo pertinent & captionem Corporis sui. See Rymer's Fœdera. Vol. 1. p. 1.

From this Consideration, Naturally arise these following Questions; which may give some light into the Dispute.

1st, If a Foreign Country falls under the Subjection of an English Power, to whom does the Property of that Country belong, to the King, or to the States, or to both? If it belongs to the King, as his intire Property, he cannot forfeit the same for Male Administration, to the Parliament of England, nor can their Acts bind such Subjects. We must consider therefore, both Countries under different Allegiances; the one to a Monarch, and the other to a Commonwealth; for I can call

call England no better, if our Kings are not here the Supream Power.

But if they Forfeit to the Parliament with the King, the Reason must arise from hence, that the States, with the King, have an equal share in the War, as being Collectively the Supream Power, in that Nation which Carries on the War, and all the Instruments for pursuing the same, are procur'd by the States with the King. But then it must appear by our publick Records, that the Parliament of England in Ancient Times were so much Concern'd, either in procuring the Conquests, or pretending a Right to them afterwards, they were kept and Transfer'd, according as the Exigence of the Times requir'd, without any Intervention of the States, all was perform'd by the King's sole Authority.

Lastly, If such Conquests fell to the States, without the King, he is no more concern'd than Scipio or an Aemilius, to act as a Servant to the Supream Power, and to put them in Possession of his Conquests. But I am very Confident, if the Case was so, we should have found some shadow of this amongst the voluminous Collections of Mr. Rymer.

I Conclude therefore, that all such Conquests belong intirely to the King, as his Property; which leads me on to the second Quere, Whether a King, upon Supposition, that he forfeits his Regalities in England
upon

upon Male Administration, forfeits for the same Facts that Regard England his Right to Ireland also, I conclude no more than an Elector of Brunswick, upon supposition of Male Administration in the Empire can be affected by any Imperial Edict in his Pretensions to England.

All that I have said amounts to this, the King has evidently the Supream Power, because all Conquests by English Arms become immediately his Property.

'Tis strange to me that the Senate in England shou'd be the Supream Power, and nevertheless there shou'd be no Marks left of any Homage ever paid to 'em, and that the King shou'd Exercise, Uncontroul'd, and Uninterrupted, the full Powers of Receiving and Transferring Homage at his Pleasure. As the Empress Maud, without regard to Stephens's Possession, or to the Rights, or pretended Rights of the States, made Milo Count of Hereford, and gave from her Self and her Heirs the Service of Robert de Chamados, &c. for ever, as may be seen in Rymer's Fœdera, Vol. 1. p. 8.

From which Consideration arises another Quere, viz. If a King of England shou'd, upon Male Administration, Cease to be King, as he must consequently commence a Subject, he has the Right to be Try'd and Convicted before he can Forfeit his private Goods and Chattels. If I am answer'd in

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the Negative, I conclude, that it must be from one of these two Reasons, he either is incapable of having any Property, or tho' he is not incapable of having Property; nevertheless, what he Enjoys has not the good Fortune to be his own? and he is no more than a Servant put in Trust with Goods, to which he has no Right, otherwise than as by the sufferance of his Masters he can make Use thereof.

If we grant the first, That the King is not capable of Property, he is in a worse Condition than any Subject in the Kingdom.

But if he is capable of Property, we must distinguish in his behalf, those Goods which are his proper Own, and those which belong to the States, if he Looses the latter; neither the Law of God or Man justifies taking from him the former.

If his Farms, Rents, and Crown-Lands do belong to the States, he has for at least, one Thousands Years, been very Busy in giving away what was not his own, Alienations and Donations of the same were never Question'd, nor is there a Whig in this Kingdom who Enjoys such Lands with any scruple about the Title.

I conclude from hence, that an exil'd Monarch has at least a Right to his Bed, and to the Necessaries of Life to be sent after, unless he flies

flies from Justice, and refuses to appear after proper Summons.

But alas, these are meer Suppositions, that have no Foundation but the Air; our Kings are so far from being incapable of Property, that all Property of the Subject is deriv'd from Them; as Sir Robert Filmer observes, from a Speech Serjant Heall made in Parliament, 43d, Eliz. He marvel'd the House stood either at the Granting of a Subsidy or time of Payment, when all we have is her Majesties, and she may Lawfully at her Pleasure take it from us; and that she had as much Right to all our Lands and Goods, as to any Revenue of the Crown, and he said he cou'd prove it by Precedents in the time of Henry 3d, King John, and King Stephen. See the Freeholders Grand Inquest, p. 85.

We must observe, this was Spoke in Parliament to the Representatives of the People in Opposition to them, and he was not Question'd or Call'd upon by the House to Explain upon that Subject, which was a Tacit Acknowledgement of the Truth of what he there Deliver'd.

You will also find in the Body of this Book, Proofs that the first Kings had all the Lands of England in their own Property.

I premise these Things only to let the Reader see what Injustice our Kings often Suffer, when they are driven into Exile or Depos'd.

They are Punish'd without Trial, Condemn'd, Unhear'd, and are Rob'd even of the Privileges of the Meanest Subject without Redress.

I may also venture to say, that Englishmen are sometimes too precipitant in their Proceedings against their Monarchs, whose Faults have not been so obvious to every understanding, as to seem to merit such Usage, Richard 2d's Fate, and Edward the 2d's, makes but a dark figure in our History, and so much the worse, because the Laws of Nature were Violated, and the nearest in Blood were call'd in to finish the Works of Horror.

But to return, I have one Point to insist upon, which is, that an English King cannot be subject to the Parliament abstractedly consider'd, as an House of Lords and Commons, because he receives not his Power from them alone, but Succeeds to the Crown Jure Hæreditario.

If we Consult the Civilians what Jus Hæreditarium means, we shall find it is Successio in omnia jura Defuncti, and there are two ways of obtaining this Right, viz. either by Testament or without, as for Instance, James 2d was Hæres Intestatus to Charles the Second, because tho' he was not made so by Will, yet as Custom had ever made without a manifest Will to the contrary, the nearest in Blood

Blood the Succeeding King, James, as such had an Indisputable Right thereto.

But tho' Henry 2d, during Stephen's Life, had a more clear Title to the Crown than that Usurper; nevertheless, to accommodate the Dispute between both Parties, an Agreement was made, and without any Intervention of a Parliament, Stephen appointed Henry 2d to Succeed him in this Manner.

Sciatis quod ego Rex Stephanus Henricum Ducem Normanniæ post me Successorem Regni Anglia & Hæredem meum jure Hæreditario Constitui & su ei & Hæredibus suis Regnum Angliæ Donavi & Confirmavi.

Know ye, That I King Stephen have Appointed Henry Duke of Normandy, my Successor to the Kingdom of England, and my Heir by Hereditary Right, and thus I have Confirm'd to him and to his Heirs the Kingdom of England. See Rymer's Fœdera. Tom. 1. p. 13.

I conclude from hence, That the Crown of England was at that time Hereditary, and if we Prosecute our former definition of Hereditary Right, we shall gain no trifling Argument to Support our Question. If Stephen had not the Sole Property of the Kingdom of England, he cou'd not Constitute Henry his Heir and Successor, to that Crown, for Stephen's suppos'd Right must be either Temporary, Successive, or none at all;
if

if Temporary, he cou'd not make Henry Succeed to those Rights, which were not in his Disposal after his Death, but Reverted to other People from a more Antient Right.

2. If it was Successive, the Rights to that Crown were Independantly his own, and he cou'd Consequently make Henry, or any other Person Heir to them he pleas'd.

3. If he had no Right at all to the Property of the said Kingdom, he was Intrusted as a Servant, and cou'd not appoint Henry Heir thereto by Will.

From what has been said, I conclude the Property of the Crown must be Solely Invested in our Kings, and they may appoint whom they please Heirs thereto.

I shall only close up this Argument with an Observation, that Stephen neither claim'd his Right by Possession, nor by the Choice of a Parliament; but upon an Oath a Lord Steward made, that Maud the Empress was Excluded by Will.

We find likewise in an Epistle that Henry 2d. Wrote to the Pope concerning the Rebellion of his Sons, Et quod sine Lacrymis non dico contra Sanguinem meum & viscera mea cogor odium mortale concipere & extraneos mihi quærere Successores, with Tears in my Eyes I speak it, I am forc'd to engender in my Mind a mortal Hatred against my own Flesh and Blood, and seek out for
Heirs

Heirs more Remote. Rymer's Fœdera. Tom. 1. p. 35.

But some, notwithstanding these plain and evident Proofs, insist upon the Legislative Power of the Two Houses, which is not near so Antient as some pretend, neither can they be said to enjoy the same Compleatly at this Day.

We may see in Rymer's Fœdera, a Letter of Henry the Seconds, which had the Force of a Law; it declar'd, That if any Ship shou'd be Wreck'd upon the Coasts of England, Picardy, &c. If any Living Creature escap'd out of the Ship, even a Dog, neither he nor his Successor shou'd Claim the Wreck of that Ship, nor any other Person who shou'd have Property in the Wrecks. The King's Pretensions to these Wrecks was Founded upon the Custom of Nations: But he was pleas'd in this Letter to recede so far as to suspend his Claim, if even a Dog was found to escape alive.

From whence I observe,

1st. That he was look'd upon as the Sovereign Power, for by the Rhodian Law, and by the Law of Nations, such Wrecks belong'd to that Power alone.

2d. If he had not been the Supream Legislative Power, he cou'd not make a Law to affect the Rights of others; for this Law extended to his Heirs, and to any Person to whom such Property shou'd be Farm'd. The Let-

Letter may be seen in Rymer's *Fœdera* Tom. p. 36.

Molloy, I suppose, was not sensible of this Letter, when he Wrote his Tract *De jure Maritimo*, because he ascribes the first Promulgation of this Law to King Richard, which was really issu'd forth by Henry 2d.

In the Agreement between Henry 2d, and his Rebellious and Ungracious Sons, it was stipulated, That those who in Fighting against the Father had Rob'd the Subject, and ran away with their Goods, might Return and not be oblig'd to Answer for the same; which was much a disposing away the Property of the Subject, as if it had been formally pass'd by Act of Parliament, and we cannot but remember, very lately, the Soldiers who made too Free with the Peoples Goods at Preston, cou'd be Indemnified only by an Act of the States.

The Words are,

Itaque quod de catallis quæ asportaverunt in recessu suo non respondeant. See Rymer's *Fœdera*. Tom. 1. p. 38.

Richard 1st. Exercis'd the Legislative part, as high as any Person can conceive, in Establishing by his own Authority Naval Punishments; for immediately before his Voyage to Jerusalem, he issu'd forth an Order for the several sorts of either Capital or Lesser Punishments, which shou'd be incurr'd by those who Accompany'd him in his Journey: If any
Per-

Person can find an House of Lords or Commons in this Ordinance, must strain the Sense very high; the Words run thus, Sciatis nos de communi proborum virorum Concilio fecisse has Justitias Subscriptas.

Let 'em know we have made these Laws by the Advice of Honest Men.

The Ordinance may be seen in the Appendix, N. 2. and in Rymet's Fœdera. Tom. i. p. 65.

In this were included Death, Banishment, and pecuniary Mulcts.

We shall find when he was taken Prisoner, by his Letters to his Justices, without any intervention of a Parliament, he raised, in those Days, an immense Sum of Money.

1st. He Arbitrarily took away the Goods of the Church, which at that time was as strongly secur'd Property, as was in the whole Kingdom; he call'd it Borrowing: But however, to Borrow with such a Warrant as cou'd not be Resisted, was little better than Taking away by Force.

2d. He Arbitrarily Demanded the Children of Noblemen for Hostages, who were accordingly Deliver'd to the Emperor for Security, which shew'd a Manifest Power over the Liberties of the Nobility.

3d. Doctor Kennet is pleas'd to acknowledge that he rais'd the Money by Imposing Twenty Shillings upon every Knight's Fee, taking the Fourth Part of all Laymens Revenues;

venues, and Clergymen's, with a Fourth Part of their Goods: The Chalices and Treasures of all Churches were taken to make up the Sum.

If the Doctor can find any Act of Parliament to raise this Money, he will baffle my Argument; but he knows the contrary; he knows, if he is half the Historian he pretends to be, that no Parliament cou'd or did sit at that time.

Another Instance of Richard 1st. Legislative Power, I find in the 104 page of the same Volume.

The Pope Writes a Confirmation of a Statute made by Richard, in which he recites the Statute at large; and we shall find by the Stile, it was no more than a Letter under his own hand: In this he solemnly Enacts, That in Consideration of the Care and Affection of his Clergy, in Contributing their Plate and Riches to his Service, the like Demands should not be made, either by himself, or by his Posterity, for the future, upon any Pretence whatsoever, and that all the Liberties of the Church should be inviolably preserv'd.

We find this Letter Bound both himself and his Posterity not to Raise any Taxes upon the Church; and accordingly, the Clergy, ever since, till the Reign of King Charles, have Taxed themselves, in Convocation; or at least, they had a Legal Claim to that Privilege

vilage, altho' a bullying Monarch, or an Usurper, might incroach thereupon; they have thought fit since, to recede from the only Privilege that could make a Monarch, from any Political View, think it worth his while to attach them to his Interests; the Consequences they have since severely felt.

Perhaps some Men who have taken Opportunity from the depress'd and miserable State of the Clergy, in late Days, may deride this Notion, and fancy our Fathers had no more veneration for their Religion, than their Posterity: But we shall find, even King John, who perhaps was not the best Christian in his Days, look'd upon these Privileges of the Church as unsurmountable: He wrote a most submissive Letter to the Clergy, and urg'd them from all the Motives of Interest and Honour, to raise a Sum of Money to advance Otho to the Empire; which we may see in Rymer's *Fœdera*, Tom. i. p. 130. His Spirit when he wrote to them, seem'd to savour of a little Christianity, and he condescended to Beg of those whom his Ancestors had been us'd to Plunder.

The like humble Letter he wrote to the Cistercian Monks, to beg their Assistance against the French King; which may be seen ib. p. 132. He sent a Letter upon an Account of the like Nature, to the Clergy of Ireland, vid. p. 136.

To shew the Deference the Bishops of that Age requir'd; the King did not so much as pretend to write to them in a Mandatory Stile; an Instance of which may be given, p. 138.

He desires the Bishops to intercede with the Pope in his behalf.

I have extended this Preface beyond its just length, with no other view, than to give the Reader a Specimen of what Proofs we have in store to fortify our Argument: He may see the Rights of the King and Clergy fairly drop'd, our old Constitution entirely neglected, and even old Christianity taking its Leave with the rest, which was indeed the true Reason of my adding some Reflections, in my Appendix, on one who wou'd persuade us he is Bishop of Bangor. I can only say, if the Bishop of Bangor wrote that Treatise, he was a Consummate Politician, as Politicks go in these Days. But if we can say no more of a Bishop's Writings, what great addition will Religion receive? Or how will the Clergy recover their lost Lustre. But 'tis time to draw in the Reins, Passion Indulg'd may speak Extravagant Truths.

I must needs say our Adversaries have taken severe Methods; but the God of Justice will Protect and Defend his Cause.

If I have advanc'd any Falsehood, either in Politicks of Religion, I am ready freely to Recant; but if I have not, I surely Merit

rit some Consideration from the Reader. Let him lay his Hand upon his Breast, and acquit his Conscience of so much as acquiescing in any Injustice done to God's Vice-Gerents, or in any Violation of the Laws of Nature, if he has, he may surely depend upon his feeling the Mistake; his own private Possessions will dwindle away, his Children will Curse him, and Posterity remember him with a Sigh, if he is worth any remembrance at all. There is a Power above which made even Kings, and by whatever secret springs he Governs Humane Affairs, and however Irregularly they seem to move, time will visibly correct their seeming Anomalies, and shew how Righteous and how Just the Ways of God are, we shall find him strictly punctual in his Punishments, and in his Rewards.

Tyrants and Usurpers have in all Ages prevail'd, some have gone down to their Graves in Peace, and the rest have sunk under the weight of Popular Odium and Discontent. But such Men have in the end no great reason to brave the Powers of Heaven, the Grave covers all their Pomp and their Attendants, and their Guards repair to the next Successful Invader of their Illgot Spoils, and what have they from the Hands of God but to lye down in Sorrow.

I shall leave the Reader to Reflect upon the Folly and Distraction of Mankind, the Mutations of Empire, and the Dessolations Rebellion has made, when he has gone through
all

all these Speculations, he may perhaps come into my Notions, he will find every Publick Calamity, and Private Disaster, take their Rise from the Ignorance of our English Constitution, and the Injustice we have sometime or other come into against our Lawful Monarchs.

The Act of Recognition of King James I.

— Reuniting of two mighty Famous and Antient Kingdoms (yet antiently but one) of England and Scotland, under one Imperial Crown, in your most Royal Person, who is Lineally, Rightfully, and Lawfully descended of the Body of the most Excellent Lady Margaret, eldest Daughter of the most Renown'd King Henry 7th; and the High and most Noble Princess Queen Elizabeth his Wife, eldest Daughter of King Edward the Fourth, the said Lady Margaret, being eldest Sister of King Henry the Eighth, Father of the most High and Mighty Princess, of Famous Memory, Elizabeth, late Queen of England.

WE therefore your most Humble and Loyal Subjects, the Lords Spritual and Temporal, and the Commons in this present Parliament Assembled, do, from the
bot-

bottom of our Hearts, yield to the Divine Majesty all humble Thanks and Praises, not only for the said unspeakable and inestimable Benefits and Blessings abovemention'd; but also, that he hath farther enrich'd your Highness with a most Royal Progeny of most rare and excellent Gifts and Forwardness, and in his Goodness is like to encrease the happy Number of them, and in most humble and lowly Manner do beseech your most Excellent Majesty, that as a Memorial to all Posterities, amongst the Records of your High Court of Parliament, for ever to endure of our Loyalty, Obedience, and hearty Affection, it may be Publish'd and Declar'd in this High Court of Parliament, and Enacted by the Authority of the same, that we (being bounden thereunto both by the Laws of God and Man) do Recognize and Acknowledge (and thereby express our unspeakable Joys) that immediately upon the Dissolution and Decease of *Elizabeth*, late Queen of *England*, the Imperial Crown of the Realm of *England*, and of all the Kingdoms and Dominions, and Rights belonging to the same, did by inherent Birth-right, and Lawful and Undoubted Succession, descend and come to your most Excellent Majesty, as being Lineally, Justly, and Lawfully, next and sole Heir of the Blood Royal of this Realm, as is aforesaid, and that by the Goodness of Almighty
 God

God, and Lawful Right of Descent, under one Imperial Crown, your Majesty is of the Realms and Kingdoms of *England, Scotland, France and Ireland*, the most Potent and Mighty King, and by God's Goodness more able to Protect and Govern us, your loving Subjects, in all Peace and Plenty, than any of your Noble Progenitors, and thereunto we do most faithfully and humbly submit and oblige our Selves, our Heirs and Posterities, for ever, until the last drop of our Bloods be spent, and do beseech your Majesty to accept the same as the first Fruits of this High Court of Parliament, of our Loyalty and Faith to your Majesty and your Royal Progeny, and Posterity, for ever; which if your Majesty shall be pleas'd (as an Argument of your Gracious Acceptation) to adorn with your Majesties Royal Assent, without which, it can neither be Compleat or Perfect, nor remain to all Posterity, according to our most humble Desire, as a Memorial of your Princely and tender Affection towards us, we shall add this also to the rest of your Majesties unspeakable and inestimable Benefits.

M. EARBERRY.

THE



T H E
Old *English* CONSTITUTION
Vindicated.



MY Intent in Writing the former part of this Work, * was no more, than to give the World the first Principles of Government, I propos'd to myself a pure and unmix'd Method, such as no Man could except against, without either calling himself or me a Block-head.

If the Definitions or Axioms, or the Conclusions were wrong, I was very sensible what Reward such vain pretences to Mathematical Principles would claim. But as no sufficient Answer to the last Performance has been hitherto Exhibited; and as I have been well satisfied no such Answer is ever likely to come out, I think my Duty to

* *Elements of Policy Civil and Ecclesiastical, in a Mathematical Method.*

God and my Country, obliges me to pursue the Blow.

I flatter my self, that if either Doctor BENNET, or some other People, had began first that way, we should not have seen *Rebellion* or *Schism* so wretchedly defended. Men would have either intirely with assurance entred into a Confederacy with those Enormous Sins, or have intirely abandon'd them.

The Method I propos'd, was certainly the best and most satisfactory that ever appear'd, but whether I came up to the Design, the World by this time may judge.

I endeavour'd in the first, and some succeeding Propositions, to explode the Scheme Men have earnestly embrac'd of a State of Nature. What an abominable System of Politicks and Divinity Mr. HOBBS has rais'd from that unhappy Notion, is too evident from his Writings, and what miserable Consequences have flow'd therefrom, no Man can be Ignorant, who is vers'd in the Modern Attacks upon the True English Constitution both as to Church and State.

I therefore laid down in the first Proposition, That no Powers in a State of Nature cou'd be transfer'd by Individuals to one Person, which every distinct Member had not before the Compact; which I find since has not been fully understood; because some have

have not distinguish'd between Force, and Power.

The first is an Arbitrary Exercise of the natural Powers of the Body, which may not be warranted either by the Laws of God, or Man. But Power in this Treatise, is only the Object of Moral Actions. Two Men may have more force than one, but nevertheless each Man may be equally invested with the same Moral Powers, and be under the regulation of Divine or Human Laws. If therefore in a State of Nature, every Individual was under the regulation of the Law of Nature, his transferring those Powers he then enjoy'd, does not take that Restraint intirely away, but the Person to whom those Powers are transfer'd, must be tied to the same Obligations.

I said therefore that a Superior Power cou'd not be transfer'd to an Individual; that is, an Individual could give no more than a Power over himself; and if one thousand should give him such Power. This creates no complex but a simple Power over every Individual. If several Persons should lodge different sums of Money with a Banker, the Banker is the Representative Master of the Sum Total; but he is accountable to each Individual for every Sum, according as he has receiv'd it from their Hands.

If therefore in a State of Nature two Persons should have different shares of Power ; as for instance, one should have the Power of Life and Death, and the other not, (which I only lay down as a naked supposition) if they both should transfer all their Powers to one and the same Person, that Person according to no Hypotheses, can be invested with a Power of putting both to Death. For, even tho' we grant that the Person who had before the power of Life and Death, could suffer such a Penalty, the other could not, because he could not be affected with the Deed of another Man, any more than a Person who indebted 100*l.* can be oblig'd to pay 1000*l.* upon the default of the payment of another who is indebted to the same Creditor for such a Sum.

If a Thousand Men Constitute a Representative, the Representative is to look upon himself as the Representative of each, and accountable for every share of Power he receives to the Person alone from whom he receives the same. 'Tis not therefore the Act of the Thousand gives such a Representative Power over me, but my own single Act when I resign'd up my Power into his Hands.

When I said therefore that a Superior Power cou'd not be transfer'd to an Individual, I should have been easily understood,
if

if the fifth Axiom had been Consulted, *viz.* *If to two equal Powers which regard the same End, a Power be added to one, which the other has not, that Power is Superior to the other*: I say therefore no such Superior Power can be given to the Representative, for the above-mention'd Reasons; for he can do no more than the Person could before, whom he Represents.

That the Power of Life and Death cou'd not be in such Persons in a State of Nature, may easily be prov'd.

God, when he Created Man, made both Body and Soul to Constitute one Person, and I believe none will dispute but *Cain* was guilty of the Breach of a Divine Law, or of the Law of Nature, when he destroy'd his Brother *Abel*. If therefore any Person in those days was particularly Commission'd to take away the Life of another Person, such Commission must be Authoriz'd either by the Laws of God or Man; Human Laws are excluded by our Hypotheses, and the particular Person so Commission'd by Divine Law, must be mark'd out by Divine Revelation. But even this Supposition produces such an inequality as is inconsistent also with the Hypotheses.

But if all Persons were equally Commission'd, *Cain* put *Abel* legally to death, however crossgrain'd the Fact seem'd to be.

But

But I look upon a Man who pretends to violate the Will of God, as guilty of the Breach of a Divine Law, because the Will of God is a Law to the whole Creation. But as the whole Creation was made for the sake of Man, and he is Lord and Proprietor of the Goods of Life, another Man who is equal Lord and Proprietor of the Goods of Life, can have no Superior Property in the Life of that Man, by Axiom 8th, if one Power can *be restrain'd by another, the latter is Superior*. But this Superlorty is against the Hypotheses, † but I take it for granted, no body will deny that Death is a very powerful Restraint.

But some will urge, that the putting a Man to death in my own defence, gives me power over the Life of another.

But still this is equality of Power, because he has the same Right over mine, if I should assault him in the same violent manner.

But this Right of destroying my Adversary, to preserve my own Life, proceeds from a Divine Law which intirely overturns my Adversaries Hypotheses. For it proceeds from the Light of Nature in my Breast, which tells me that my Life is not my own, but God's, who gave it, and that I am answerable for any Neglect of mine in not prefer-

† See, Elements of Policy. Def. 7.

ving the same. My killing him is Accidental in the discharge of my Duty. But if we put the Case that he falls alive into my Power, and I had the strongest Assurances that he either wou'd not or cou'd not make a second Attempt, I should have no Power to pronounce a Judicial Sentence upon him as a Malefactor, and Execute him upon a Neighbouring Tree. And this is the Power we Contend for in a Magistrate.

We are not suppos'd to resign even to Magistrates the Power of self-defence in a lawful way. This therefore is not the Power of Life and Death invested in a Magistrate, because no particular Power is thereby deriv'd to him, but 'tis a Superior Power he enjoys, 'tis a Power which we cannot have in a State of Nature, to put Men judicially to Death for Crimes committed.

You cannot put a Magistrate to Death, to preserve your own Life, even by your own Hypotheses; for if you resign to him the Right of defending your self in the same manner as you could only defend your self in a State of Nature, you have either resign'd that Power of self-defence, or you have resign'd nothing; and consequently you cannot take away the Life of one who demands the privilege of cutting your Throat; to such a pass is the Argument by this time reduc'd. But if the Magistrate's obligation is only to assist you with his united Powers
if

if your Life should be in danger, no new Right accrues to him hereby, because nothing is resign'd to him.

I am perswaded, that thus far I have proceeded safe, I am confident I tread upon no Ground that shakes under me; but what I have said, is Built upon the most common and obvious Principles.

The Corollary was, that all Men are still in a State of Equality. This Corollary deserves to be insisted upon, because 'tis alone sufficient if prov'd, to put an end to the the Dispute.

I do from this Corollary assert, That there is no Medium between the Doctrine of Unlimited, Passive Obedience to the Supream Power, and a perfect State of Nature; for, as I have prov'd before, my own Act of Creating a Representative, does not give him a Power over another Person; and if he Represents a greater Number of Persons, the Power that he borrows from me, respects none but my self.

Therefore if in a State of Nature I had a Right to all things, I have the same still: If my Representative undertakes never so many Trusts, he shall not give away my Right; and if I cast my Eye upon a goodly Lordship, or Mannor, or upon a Purse in the Road, the Civil Magistrate under pain of Breach of Trust, is oblig'd to assist me
in

in procuring the same. I may Compound indeed for my Protection, to desist from such Extensive Demands, but I am not tied down to this Composition any longer than I please, because no Human Power on Earth can be the Umpire in this Contract, for the Umpire must be a Superior Power, which this Representative cannot be, as appears from what has been already said; for he has no Power but what he borrows from me: The Obligation therefore proceeds from myself alone, which I can dissolve at my Pleasure.

From hence I drew the last Corollary, That the King can make no Contracts to oblige his People; whatever he does in that Case, can be Obligatory no otherwise, than as it is the Act of every individual; which is in effect no more obligation, than what the individual pleases to impose upon himself.

I Conclude from what has been said, that the supposition of a State of Nature, makes us in a State of Nature still, all the Imaginary Contracts made since, are no stronger than the green Wyths with which *Sampson* was bound, which he could break at his pleasure.

The Second Proposition States more fully the Nature of a Representative, which certainly conduces very much to the settling our Question.

The Definition of a Representative, is to exercise a Power that was originally in some other Person ; a Representative, is a Relative Term, and supposes some body represented, who must be the Person by whom such Powers are transfer'd ; but if they are transfer'd past Resumption, the Person to whom they are transfer'd, enjoys the full and compleat property independent of any one else. But if the Power can be taken away by another, that Person must have the Right to take it away ; which Right must be invested in him by some Law, he must be either the Executor of a Legal Sentence in behalf of another ; as when a Sheriff Distrains the Goods of a Debtor upon an Execution, in order to restore a just Debt to a Creditor, or the Person must have an immediate Right thereto himself.

But the first part of the Supposition does not come under this Notion, because the Right must lie between the Representor, and the Person represented. But if we grant the second, the Person represented must have the immediate Right to that Power which the Representor enjoys, who acts by no other pretence of Right, but the suppos'd tacit consent of the Represented.

I wou'd know why I may not as legally demand back my Power lent to another, as my Money, they being both equally my Property ;

perty ; and upon this presumption I deduc'd the following Corolary.

That Robbing upon the High-Way is a very laudable Employ ; for it is not to be imagin'd I lent my Power to another, to my own prejudice ; and if I find my Circumstances narrow, what Power on Earth can forbid my enlarging 'em, as I have a Supream Power in my own Breast, by the judgment of that I shall Stand, or Fall ; another Man's Plea to Property, shall be no Bar to my Claim, which is as unlimited as the Globe o'er which I range.

I am sure no Whig in *England* will deny, that before this imaginary Compact I had an incontest'd Right to Rob, and if I have transfer'd that Power since, my Sovereign has got it. But what havock wou'd this make with Liberty, and Property.

But what an open insult upon the freedom of Human Nature is Tyburn, a sad Monument of Slavery, and Arbitrary Power ; can any Man believe that I lend the Prince a Power to Hang my self ? Can I not call in that Power upon the last Extremity ; then surely, or never, I may bring the Gentleman to an Account, and burn his Dead Warrant.

But to be serious, all the Arguments that have or can be deduc'd from this Scheme of a State of Nature, amount to this single

Topick, that I have lent in Trust to a certain Person, those Powers, Rights and Privileges Nature has bestow'd upon me, they are mine still, when I please to call for them ; and when I have made this Resumption, I am free from all manner of Dependance. The World is my Claim, and my Father, Mother and Brother are but Trifles, if my Ambition leads the way.

But, say some People, the Person represented, has oblig'd himself not to resume this Power, but in some Cases of just Necessity ; but who has Constituted a Judge upon Earth of these Cases of Necessity ? If the Prince is the sole Judge, he is advanc'd to a greater share of Power than I design'd him, but if I am Judge, my Decree shall be Judicial, and the Prince shall be guilty of an Act of Hostility, if he Hangs me against my own Consent. And when he procures even that, which is a large Step, he is not much the nearer, till it can be prov'd that I have Power to Hang my self ; because he acts only by virtue of that Power he borrow'd from me.

Distributing Punishments necessarily supposes a Superior Power, Coercion being a distinguishing Mark thereof ; but I cannot give another, greater Power than I had my self.

I Con-

I Conclude, That a Representative must be accountable to the Person he represents, consequently no Act of a Representative in prejudice of my Right can be valid.

I proceed in the Third Proposition, to demonstrate, That granting even a State of Nature to have once prevail'd, and an Original Contract to have succeeded that State, nevertheless the present Age cannot be included therein. I may safely assert, that the Children of those Parents who made the Original Contract, were not included therein. Consequently we are not. But that the Children cou'd not be included therein, may without Difficulty be prov'd.

The Children unborn cou'd not be included by any formal Consent of their own; it remains, that it must be by a Right their Parents had over them, or by their Tacit Consent when they came into the World. If the Parents had a Right to oblige them to enter into this Covenant, they had consequently a Coercive and Superior Power, which cou'd be given only by God himself: Which Power thus given, must be establish'd upon the strongest Foundation, even a Divine Law. Consequently *Adam* had this full Parental Power invested in himself; any Act therefore of this nature done by him, would have been equally binding to his Posterity, as the Original Contract of these State of Nature-Men.

Thus

Thus *Adam* is evidently made out to have been the Supream Power of the Universe, without any Original Contract, which is very inconsistent with our Adversaries Scheme of the perfect equality in a State of Nature; for here is a Monarch already pointed out, who cou'd by their Concession give Laws to the Universe.

If *Adam* had this Power, the same Reason holds, that his Eldest Son must enjoy the same after his decease; or at least that some particular Person must be Successor to that Power, otherwise it absolutely ceases, which is against the Hypotheses; Natural Reason can't guide us to one Person more than another, unless we recur to the Eldest Son, upon him we may safely fix, because if the Right never ceases, it must necessarily go to the first Born.

But if some will more extensively contend that every Parent has a Right to Command his Children to submit to his obligations, independently of the supream Parent; I shou'd rejoyce to know from whence this Obligation does arise: if from a particular Command of God, this Command also must direct us to shake off the former yoke, otherwise we may not only be oblig'd to obey them, but those also who were before 'em; for my natural Sense tells me, that if I am subject to my Father, my Father is subject to his; and thus the Supream Power will be run up to *Adam*. But

But if *Adam* cou'd make Laws to oblige his Posterity, he came very near to the definition of a Monarch.

But if no successive Obedience cou'd take place, what is become of our obligation to stand by the Contracts of *Nimrod's* Contemporaries; if they bore no Relation to *Adam*, who was much nearer to them, what Relation can we have to them at this distance of time? I conclude therefore, that such remote Compacts cannot affect me, if their immediate Children ow'd any Obedience to them, it has been effectually worn out in regard to us since; and I am very confident, the next Generation will scarce think themselves oblig'd to stand by some Contracts their Fathers have made at this Day.

Consequently the first Corollary must stand good, that every Man is free from his Birth, and may refuse to be Associated with his fellow Creatures.

Such Obligations as have been here mention'd, cou'd never arise from such a State of Nature, and if we grant a State of Nature, we must destroy the Power of Parents over their Children, and dissolve the 5th Commandment.

From what has been said, I may safely Conclude that this State of Nature has the most ugly Consequences fatal to Human Society, and induce a perfect Anarchy into the World. I see no Reason to imagine that
God

God provided no better for the Creation, when he had rais'd it out of nothing. Nor cou'd the All-seeing Eye of Providence not be aware of this Havock amongst Mankind, 'tis a mischievous 'tis a wicked supposition to enter into the thoughts of Man to conceive; two Men cou'd never live safely together without Government, and shall we believe that numbers of Rational Creatures were upon the level with Brutes, and had their Reason given them only to worry one another, was it necessary, they must feel the Consequences of such a State first; cou'd not the Almighty Wisdom prevent such Miseries flowing in upon us. I can never entertain such mean and unworthy thoughts of the Deity, to whom I owe my Life, my Being, and all the Comforts of Living; such a Character better became *Marcion's* malignant God, than the Eternal Father of the Universe.

But if the State of Nature is spirited away, what bottom our Adversaries will have to build their Scheme of Civil Government upon I cannot tell. The Parental Right is equally destructive to them as the Monarchical, as it is of Divine Right, and thereby gives a Sanction to all Laws and Contracts deriv'd therefrom; and if several Heads of Families, or little Commonwealths should agree to Constitute a King, the Obedience to that King is deriv'd from the Paternal Authority

Authority which is Divine, This is very conclusive on our side, tho' not on our Adversaries, because their State of Nature must be a meer *Rasa Tabula* free from any positive Laws. Otherwise their Scheme, as I have shewn is ruin'd; as I have undertaken to prove in the fourth Proposition, *viz.* If Parents had ever Dominion over their Children; this Dominion was inconsistent with a State of Equality, because the Laws of the Parent were the positive Laws of the Commonwealth.

Having thus cleared my Way by taking away the troublesome Chimera of a State of Nature, which has had too much Honour done it by being patroniz'd by Mr. *Hooker*.

I proceeded in my fifth Proposition to lay the Foundation of Civil Government, by proving the Parental Right first.

The Power Parents exercise over their Children is either by Natural Right or by Consent. But I cannot see how our Forefathers, when Children, could transfer such Powers; or that our selves, when Children, are capable of giving our Consent. They are so far from that, that their repeated cries and struggles when under the care of the Nurse, seem to declare an abhorrence of that Subjection. For my part, I cou'd never yet know what an involuntary Consent means: But if such Dominion is not founded on Consent, we must be at a loss to fix it any where but upon

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Divine

Divine Right, for if we derive it from the Sovereign Power. Children are part of the Civil Property of the Parents. But then this will not provide for them in a state of Nature when no Civil Authority was suppos'd to be in Being ; but however we have plain Scripture, as well as the universal Consent of all Ages to prove the Divine Right of Parents over their Children. *Honour thy Father and thy Mother* was a positive command of God, attended with a suitable penalty for the neglect thereof, which is back'd by several concurrent Precepts, both in the Old and New Testament ; no one, I suppose, will contend, but that Fathers ever had the same Right to that Obedience they have now ; the Precept in the Decalogue transferred no new Right, but confirmed the old.

Adam had as much Power over his Children as my Father has over me, if not more ; if we consider the Parental Power is rather diminished than increased ; some of the most eminent Privileges being convey'd to the Civil Magistrate : But if this Paternal Right had no Divine or Civil Sanction in those Days, Children might withdraw their assent. Why should we imagine that God should add such an heavy Curse to abridge Men of their natural Rights. There is no Precept in the Decalogue but is founded upon eternal Truth and Justice, and tho' the Sabbath or Seventh Day is arbitrarily there fixed upon, yet the Reason

Reason for setting such a Portion of our Time aside, for the Service of God is founded upon immutable Laws, and so is the Duty, Honour and Reverence we owe to our Parents: Kingly Power therefore, is no more than a Reparation of Parental Power, which I endeavour to prove in the next Proposition.

The Parental Power extends to the same Actions as the Majesterial Power doth; they must have therefore, a mutual Dependence upon each other, because they would otherwise be independent Powers which regard the same End, which is a Contradiction in Society: The Parental Power extends to Civil Actions, therefore it extends to Actions in Common with the Civil Power; they must therefore be mutual, the Parent must have dependance upon the King, or the King upon the Parent. To find how the Case stands, we must recur to the original of their Powers: if the Parent was first, the Kingly Power must be only a Branch of the Parental; but if the King was first, the latter is a Branch of the Royal Power; but if they were both conjoyn'd and coequal, they were at first one and the same, and would have so continued if Usurpations had not broke the Line, for tho' every Son owed Obedience to his Natural Father, yet this was in Subordination to the Supream Parent, the eldest Branch of the Family; and thus I imagined I gave a tolerable Solution of Hereditary Right, and the reason why the

eldest Son, by the antient Laws of the Universe, succeeds to the Government ; for there is not only a Right in Possession, but a Right in Reversion, which the First-born may justly claim, if he be not set aside by the Supream Power then in Being ; so that Obedience to Kings and to Parents are placed upon the same foot ; the only difference is, that part of the Civil Power is taken from the Natural Parent and given to the Prince, who perhaps is an alien in Blood ; but he is, nevertheless, the common Parent of his Country.

I would ask these vigorous asserters of a state of Nature, whether the Book of *Genesis* gives the least into such a Notion ; nay, so far from that, is the account of those Times, that we may find therein the evident Marks of Parental and Monarchical Power. The fifth Chapter of *Genesis* begins a Catalogue which is call'd the Book of the Generations of *Adam*. The first after *Adam* is *Seth* ; but why was *Cain* omitted in this Book, but because he was disinherited, and the next assumed his place : But of what could he be disinherited in a state of Nature ; the World was large enough to range in, and Land could be the least of their Care : Why is *Cain's* Name omitted, when he was equally the Son of *Adam* as *Seth* ; he could loose nothing but the Right of Primogeniture, which Right of Primogeniture, must be attended with some extraordinary Power ; or it signified

nified nothing at all, and those Genealogies fill up only Waste Paper. Moreover, Why are the other Childrens Names entirely omitted, and a Transition made to *Seth's* eldest Son, the time in which he was born is expressly mentioned, and the Years of his Fathers and own Life accurately set down, and thus it is continued even to *Noah* ? but when we come to *Noah* ; Why are his three Sons called, *The Generations of Noah*, *Gen. 6. 9.* Whereas before only, the eldest Son suffic'd ; but because those three by common consent divided the World into three Principalities, which was but one before.

I observe that Blessing and Cursing was transferring the Sovereignty, and therefore *Ham's* Doom was, that he should be a Servant of Servants to his Brethren, which was partly also propheticall, and not to take place till after Ages ; for the three Sons by Consent divided the World amongst themselves ; likewise the Blessing of *Jacob* from *Isaac*, was not at that Moment to take place ; for *Esau* departed and lived independantly of *Jacob*, and was capable of forcing him to Stratagems to preserve himself.

What tolerable Objections Bp. Hoadley or any Man else can have against this Patriarchal Scheme, I could never find : But whether Names found set down so punctually in any History after a Succession of Ages, would not be look'd upon as a Catalogue of Monarchs,

narchs, I refer to any Persons curious in those Studies. But I defy our Adversaries to assign any tolerable Reason besides for the Infertions of those Names.

'Tis not proper in this Treatise to give an Account of the Division of the Earth by the Sons of *Noah*, because the Account is intricate and not adapted to common Readers: But I must observe, that the First-born were ever peculiarly distinguished in Scripture, and *Reuben*, *Jacob's* First-born, was called by his Father. *Gen. 49. 3. The Excellency of Dignity, and the Excellency of Power.* If we view the Genealogies of the Tribes, *Exod. 6* the Persons there set down are called the Heads of their Fathers Families, who were the Sons of the Patriarchs, *Reuben, Simeon and Levi.*

The most heavy Punishment God inflicted on the *Egyptians*, was to destroy their First-born, nor indeed is this any more than agreeable to the Principles of Natural Affection, and to the most prevailing Customs of even the most barbarous, as the civiliz'd Nations; Nature pleads in their behalf, and every Man who has had the Comfort of Children can bear Testimony in this Case. What Regard God has shewn thereto, is evident from *Exod. 13. 2. Sanctifie unto me all the First-born, whatsoever openeth the Womb among the Children of Israel, both of Man and Beast, it is mine.*

With

With Indignation therefore have I seen those who owe their Coach and Six, with all their flaring Equipage that sets them above their Neighbours; to this very Right they curse and damn to the pit of Hell; tho' without it, they might have perhaps exchanged a Seat in the Senate for a Counter, and a Coronet for a Blue-Apron. Nay, some I have known (whose Blood, unless enrich'd by a Mixture derived from thence, would have been as low and poor as any that took its Warmth from a Dunghil) spurn at and deride even this Right to which they owe their Honours and their Fortunes. Why do some vainly boast of their Ancestors, and assume their Ensigns of Honour; what Right can they have thereto, if Primogeniture gives it not.

And, I conclude, That as the Civil Government is a Branch of the Parental, it ought to be rever'd as such, a King is our common Parent, and we cannot strike him and be guiltless.

My seventh Proposition was, That Government, by which I meant Lawful Government, is of Divine Right.

The gaining this Proposition, I look upon as equivalent to making a lodgment on the Bastion of a fortified place; the Enemy would find it very difficult to dislodge me, or prevent my intire Conquest-over the Body of the Town.

Mr.

Mr. HOOKER, notwithstanding he stuck so close to a state of Nature, has given up the Question by one Concession, *viz.* That the Law of Nature requireth some kind of Regiment, what kind of Regiment is not my Business here to dispute ; 'tis sufficient for me if it retains but its Nature and continues Government still, and the Properties of Government are enlarged upon, in the succeeding Propositions.

But to proceed regularly, I shall shew what I mean by Divine Right, and I shall prove that Government is founded upon a Divine Right, I mean a Divine Command deduc'd from the Nature of the thing it self, and in this it differs from the positive Institution of the Jews ; as to their Ceremonies and Legislature, they extended to one part of Mankind, and they were the Arbitrary Imposition of God on that People. But a general Command deduced from the Nature of the Thing commanded extends to all Men ; so Tythes may be proved to be of Divine Right, and all Commands which have moral Reasons attending them.

I shall prove *Secondly*, That Government has the Sanction of a Divine Command in that manner ; for if God (which I have proved) created us into a State of Government, from the Beginning, and if we can conclude that 'tis against the Light of Nature for any Person to Dissociate himself, the Argument

gument is half got over, and may for ought I know, make its way without even the necessity of a Text from Scripture ; for if we grant that Men were born in a State of Government, and God invested *Adam* and his Posterity with Sovereign Powers. Men could not by any Act of their own be freed from such Obligations, it remains that we examine whether any external Accident could set them free ; if we put the Case that the Line should be entirely extinguished, and no supream Power, such a Society could be found, the People are for that time in a state of Nature, but not in such a state as Bp. HOADLEY and others imagine, with all those dreadful Consequences attending it above-mentioned : But they are like a Head and Body parted, they are in a Condition not more tolerable than for a Fish to be upon Land, they are obliged to return to their former state. But tho' they choose a Person who shall be their Supream Governour, he cannot derive his Powers of governing from them, for the Reasons I have given in the preceding Propositions.

I say therefore, that if Accidents should destroy the Hereditary Pretenders to a Crown, the People are obliged by the Law of Nature to enter again into a state of Government, and to place the Supream Power either in one or many to supply the Defect ; as to Original Contracts, and reserving to themselves the

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Deposing Power upon Male Administration, these are Chimeras, and are inconsistent with the notion of Government, and run us upon all the Consequences above mentioned of a suppos'd meer State of Nature. I shall prove 'tis a perfect Absurdity to restrain the Supream Power. But such irresistable Supremacy is absolutely necessary to a Society. I conclude therefore, that as God created Men into Government, 'tis his Pleasure they should continue so, which Pleasure is most certainly a Law to his Creatures.

But we need go no farther than the 13th of the *Romans* to prove the Divine Right of Government, which I shall briefly and perspicuously lay down, and let the Reader judge whether my Sense or that of some others make *St. Paul* speak more becoming his Apostolick Character.

The first Verse runs thus, Πᾶσα ψυχὴ ἐξουσίας ὑποτάσσεται ὑποτασσέσθω· οὐ γὰρ ἔστιν ἐξουσία εἰ μὴ ὑπὸ θεοῦ· αἱ δὲ ὅσαι ἐξουσίαι ὑπὸ τοῦ θεοῦ πεταγμέναι εἰσιν.

We find here, 1. That no Soul is exempted from the Obedience to these Higher Powers. 2. That all Power is from God. 3. That the Powers that then existed were ordained of God.

We see here that this Obedience is prescribed to the Powers then in Being, which were the Roman Emperors, for the Interpretation put upon the Words. *The Powers that be*
by

by some is ridiculous, for they would persuade the World that the Precept extends to give a Sanction to any usurping Powers in their own times. They also wretchedly pervert the other part of the Text, *viz. All Power is from God*, which they would apply to justify the Wicked and unjust Violations of the Property of other People, which ends in no better than making St. Paul speak Tautologically, for if there is no Power but from God, why need he add, *That the Powers that be are ordained of God*: The most true and genuin Sense of the Text I take to be thus, Obey the Supream Power for this very Reason, that no power can be constituted but by God, and by such Authority do the present Roman Emperors reign.

Our Adversaries differ from us in this, They say that the Reason of the Command is deduced from the Powers that then were in possession; but we on the other side, That the Reason of the Command is deduced from hence, *viz. That all Power is from God*, which I am sure seems the more rational Motive of the two. The stress they lay upon the Powers that be does them no Service, whatever Prejudices it may raise against St. Paul, because they own thereby the Divine Right of *De Facto* Government, and they must likewise own that the Resistance of any Power in Possession is unlawful, which is in short condemning all they would take to

much pains to justify ; the odd and fantastical Conclusions they draw, are such as would satisfy only those who have got something to lose, or have been us'd to ride in a Coach and know not how to walk on foot. But they can never stand the Test against pure and unbiaſt Reason, and an honest Inquiry after Truth, ſay they, That the Powers that be, are the preſent ; *Ergo* we muſt ſubmit to the preſent, as if the Powers mentioned as preſent 1700 Years ago, had any Relation to theſe at this Day. But they ſay, *All Power is from God*. They muſt either ſay all Power is juſt, or that God muſt be the Patron of Injuſtice, which is a Contradiſtion ; becauſe, the Power proceeds from him cannot be unjuſt, unleſs we place a Power above him to ſettle the Laws of Eternal Verity : But the Miſtake in a great meaſure lies in the equivocal ſound of the Word Power in *Engliſh*, which ſignifies either the Powers that Men exerciſe by juſt and lawful Authority, or uſurped Violences ; which alas, God is ſo far from giving a Sanſtion to, that they are curs'd by him here and hereafter, in *Deuteronomy*, *Cursed is he that removeth his Neighbour's Land-mark*, and more curs'd ſurely muſt he be who removeth a Crown from his Neighbour's Head, we muſt therefore diſtinguiſh between *ἐξουσία* and *βία* *Power and Violence*. But to ſay that God is the Author of Violence is Blaſphemy ; how contrary is this to that excellent

cellent Description of Monarchical Power in the Book of *Wisdom*, Chap. 6. Verses 3, 4, 5. *For Power is given you of the Lord and Sovereignty from the Highest, who shall try your Works, and search out your Councils, because being Ministers of the Kingdom, you have not judged aright, nor kept the Law, nor walked after the Council of God, horribly and speedily shall he come upon you, for a sharp Judgment shall be to them that be in High Places, for Mercy shall soon pardon the meaneſt, but mighty Men shall be mightily tormented.* But if all Power indiscriminately is from God, the Power of doing unjust Actions muſt be from God, and Tyrants oppreſs by Divine Right. But if we ſuppoſe that God for Reaſons beſt known to himſelf ſhould permit a *Phocas*, a *Cromwell*, or any one you pleaſe beſides, to invade their Native Country, and dethrone their Maſter. I aſk whether ſuch a Perſon, without expreſs Divine Revelation, to Authoriſe him to commit the Fact, wou'd not be an eternal Villain, and have all the fructifying Seeds of Injuſtice in him, tho' God ſhould permit the Fact; away then with your providential Kings, you may as well plead in behalf of providential Plagues, and providential Famines, as providential Uſurpers.

But to return, I hope it is ſufficiently prov'd that Obedience to the Higher Powers is in this Text commanded, from the Reaſon of the Thing, viz. *All Power is from God.*
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The second Verse tells you, *That whosoever resisteth that Power, resisteth the Ordinance of God, and that they who resist shall receive to themselves Damnation.* I conclude, That the Government of the Roman Empire was the Ordinance of God, which confirms my Proposition; That all lawful Government is the Ordinance of God, even tho' it commences a new since the first Institution of Government by reason of accidental Breaches; for the Roman State arose from a perfect State of Nature into a Monarchy, from whence it was turn'd by Rebellion into a Commonwealth, and by Rebellion, from a Commonwealth into a Monarchy again, and this very Monarchy after a firm and equal Establishment which it procur'd by the Cession of the Roman Senate was become the Ordinance of God, and the Penalty of Resisting that Ordinance no less than Damnation.

I shall not insist much upon the trifling Endeavours of some to baffle the word Damnation, under the umbrage of the Greek word *xeios*, and make it dwindle only to hanging, because 'tis false as to fact, that Rebels always receive that Diminutive Sentence, for sometimes they prosper, and are above it.

It seems to me that the word *xeios* there said, refer to a spiritual Sentence, because it related to a spiritual Offence, resisting the Ordinance of God.

Thus

Thus have I proceeded as far as relates to my purpose in this trite Dispute of the 13th of the *Romans*, to prove the Divine Right of Government. the Corollaries were,

1. No Government can be altered or subverted but by a Divine Command, i.e. We cannot in opposition to the supream Power, alter or New Model an establish'd Form; we cannot turn a Commonwealth into a Monarchy, or a Monarchy into a Commonwealth, nor make an Hereditary Monarchy Elective without the Consent of the supream Power, because 'tis absurd to say that Government is of Divine Right, and nevertheless this Government can be overturn'd by Humane Violence, for Government and Obedience to Governours are reciprocal Terms; some will perhaps object what Right have all the present Establishments in the World, for my part I am not bound to justify all the Establishments in the World; but those I may justify; which, have out liv'd the true Pretender and no other for we may lay down as a Maxim; those that are out of Society are oblig'd by the Laws of God to enter therein; those that are in are obliged to continue so. But as false Powers are oppos'd to True, those that were False before cease to be so when the True have no longer Existence.

My Second Corollary needs but very little to be said thereto, after my laying down the former Positions; for as Nature abhors a

Vacuum

Vacuum so does Society Confusion ; we must close up the Breach as soon as it is made, least the Enemy should enter in and take advantage of our Nakedness ; but our Case is no better in an usurp'd Government when we cast of the Yoke of our lawful Prince, we run our selves into a state of Nature.

Thus have I made way for the Eighth Proposition, that the manner according to the different Customs of Nations in designing the Person who governs, alters not the Nature of their Authority, which is nevertheless from God. I observ'd that popular Elections are of a later date than the Origin of Government, and that tho' the People by unnatural Breaches, in some Constitutions, have procur'd the Right of Election ; nevertheless the same Rights accrue to the Monarch when elected, as if the Monarchy was Hereditary, the Reason is, That he is more than the Representative of the People, as he is the Representative of God nor can the People (as is evident from what has been said) by their own Authority confer more Powers upon the Prince than they could in the primary state of Nature, which I have prov'd not to be sufficient for Government, God therefore cloaths him with his own Authority to capacitate him for that Office, *by me Kings Reign and Princes Decree Justice.*

Some People therefore sweat to no purpose, in endeavouring to prove the *English* Monarchy

narchy Elective, because it will not bring them in the least nearer their deposing Doctrine, unless they could bring us to the plan of the *German* Empire, whose Monarch is no more than the Representative of the Electoral College, and by their Constitution, may be deprived at their pleasure. But whom can our King represent? if he has any Electors, they must be the Parliament. He consequently must Represent them. But according to our Constitution, the King's Death dissolves the Parliament, which is inconsistent with the Character of a Representative, because upon the Death of a Representative, the Power's should rather revolve to the Fountain head from whence they first flow'd. The Death of the Representative cannot destroy the Being of the Person Represented.

I have been often mov'd with the Impertinence, more than the Solidity of a trifling Objection that creeps into every Seditious Paper in these unhappy times, *viz.* where is any Hereditary Succession in the World from *Adam*? has not our *English* Succession been broke and patch'd up again in almost every Reign since the Conquest; all which I grant without any prejudice to my Hypotheses, for I urge the Patriarchal Sceme, and the Right of Primogeniture in the first Ages of the World, only to prove the Divine Right of Government, in opposition to a State of Na-

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ture,

ture, that the World might see thro' what Channels Power was at first convey'd, I also enlarg'd upon the Right of Primogeniture to shew how agreeable it was to the Law of Nature, and the Intention of God in the Creation of the World, which renders it very probable that 'tis not highly displeasing to him since.

Let therefore the Succession be never so often broke, if the Right is not restor'd to the injur'd Heir, while he or his Pretensions live, the usurping Government is properly no Government at all, but a Combination of Felons: But when the Heir dies and leaves no Pretenders behind him, God either as his Infinite Wisdom thinks proper, marks out the Usurper for Divine Vengeance, and sends an *Omri* to revenge the Fact, or sometimes for Reasons best known to himself, he suffers the Usurper to Build up his Family upon the Ruins of the former.

Possession against Claimants is no plea, but Possession without Claimants is a good plea, because that which a Person can possess without injury is his own, and Injury necessarily supposes somebody injur'd; which Injury cannot remain after the injur'd Person is dead, and these to whom Restitution can be made. Then God stamps his Authority upon the Regnant Prince, whosoever he happens to be, the People either choose, or are compell'd to submit to him.

But

But some Persons in these Days have committed a Rape upon common Sense, in asserting their imaginary Rights of Conquest, and Titles of Kings, *De facto*, Notions Redicul'd even by one of the most considerable Saints in their Calendar, as it justly deserv'd, I mean Col. *Sidney*, a Person of whom I may justly say, that he had Qualities which unhappily turn'd to wrong Objects, made that Man a Plague, who would otherwise have been the Ornament of his Country. Even he has shewn in his Tryal, that a *De facto* Title was so mean, even *Oliver Cromwell* scorn'd to stoop so low as to take it up.

I have shewn in what Manner Conquest may be the means of procuring a Right Title, but that Conquest abstractedly gives a just Title, is absurd; for 'tis no more than casting Lots: The Sword is as uncertain and precarious a Decision as the Votes of a Multitude, or Balloting in a House of Commons. But what Law compels me to hazard all my Pretensions upon such precarious Terms, is it not possible for me to have a Right to exercise my Powers, tho' my External Actions are restrain'd by Bars, or Chains of Iron. If I consent indeed to submit my Contest with a Neighbouring Prince to the Chance of War alone, if he Conquers me 'tis owing to my own Agreement, and from that Act he derives his Power over me. But to tell me that Right can be deduc'd

from the Natural Powers of the Body, or that a greater number of Wretches who have neither Sense nor Ability to Live without engaging in a wrong Cause, can by Virtue of their united Force and over-powering me, arrive to a good Title to my Life and to my Possessions; is an Idea of Right more suited to a Beargarden than to Civil Societies, and for ought I know, *Bruine* if he had fair play, might contend for Sovereignty with the strongest Prince in Christendom. The King of *Denmark* seizes upon the Dutchies of *Bremen* and *Verden*; we must very much reflect upon that Monarch, to say that he had do other Claim thereto, but what he ow'd to a vast Superiority of Soldiers, I am sure these are State of Nature Principles, and Calculated as much to support the Usurpers upon the Highway, as Usurpers of Thrones and Kingdoms.

But some will tell us that Kingdoms have been dispos'd by Lots: The *Persian* Monarchs deriv'd their Titles from their Horses Nostrils, without any Breach or Contradiction in their Constitution, and if the *English* Monarchy is so contriv'd, that Possession (which is another sort of Lottery) shall give a Title, what Contradiction is this to common Sense?

I answer, that however precarious the Choice of a Monarch might be, all Constitutions took Care that the Reign should not be

be so. But to expose a State to perpetual Convulsions to invest them by the Laws, who by those very Laws are declar'd Traytors, with Imperial Crowns, and all the Rights and Privileges of Kings *de jure*, is so monstrous to conceive, that we must have very express Declarations in our *English* Laws to persuade me to believe this absurdity.

The Acts of Kings *De facto* are with us of no weight, because they were Parties concern'd, and the Authorities of those Acts is part of our Question. But if we consult what Opinion the Nation ever had of Usurpers when they were recover'd from their Power, we shall find when, and where, the *English* Constitution prevail'd, when it was buried, and when it rose again from its Ruins.

To omit the Usurpations before the Conquest as too remote from common View, I shall descend to the first Usurper after, *viz.* *Steven*. The Author of the Book of *Hereditary Right* has sufficiently prov'd, that he was oppos'd by the Empress *Maud* and her Adherents, notwithstanding his being in Possession, as an Usurper: And *Henry* the 2d when he had obtain'd the Crown, depos'd the Noblemen made by *Steven*, as meer imaginary false Earls and Lords, see p. 55.

The *Lancastrian* Usurpation had its various turns, till it was finally overthrown by *Edward* the 4th, and for ever blasted by the most solemn and memorable Acts of our
Consti-

Constitution. The House of Lords declar'd upon a full Hearing of the Pretensions of both Parties, that the Duke of *York's* Title could not be Defeated, and *Henry* the 6th join'd in the Determination of the Lords, that the Duke of *York's* Title was just, lawful and true. And *Henry* the 4th, in a Publick Protestation made to the Parliament, disown'd the Right of Conquest, as has been observ'd by the same Author p. 107. he has also prov'd that some Acts of the Usurping *Henries* were of no Authority in the succeeding Reign, because not confirm'd thereby, p. 138. as for *Richard* Duke of *York's* attempt to recover his Right it was agreeable to the Law of Nature. But I am sure the Attempt of a Person who has no such Title is by our Laws High-Treason.

These Usurpers 1 *Edw.* 4. c. 1. were called pretended Kings, and Kings in Deed, but not in Right, and their chief Adherents were attainted by Act of Parliament, which they could not have been if they serv'd their lawful Prince, all Acts done in prejudice of *Richard* or his Heirs were declar'd of no Force or Value, in *Henry* the 8th's Reign, they were adjudged Traytors who should by any means Council or endeavour to interrupt the Heirs of *Henry* the 8th in pursuance of his Will, from inheriting to this Kingdom.

This Act we may see 35 *Hen.* 8th, c. 1. and the same seconded more strongly in the 1st *Edw.*

1st *Edw.* 6. 12. That if any of those Persons to whom the Crown was limited, should usurp upon one another, they should be adjudged Traytors, and suffer the Pains of High-Treason.

I give the Reader this short Sketch that he may see how much our Enemies impose upon us with their Mountebank Pretences to their having the Constitution on their side, when they have the whole Bulk of the *English* Laws against them, and they are forc'd to recur to the miserable subterfuge of Laws made by Usurpers to prove their side of the Question.

My Ninth Proposition is the Result of the foregoing, for if all Legal Establish'd Governments are of Divine Right, the supream Power in any cannot be Resisted. But I have observed *Junius Brutus*, alias the *French* Hugonot *Beza*, in his Book call'd *Vindicia Contra Tyrannos*, has not in the least clear'd what he meant by the Supream Power, and the Result of his Book is, that all Governments that ever have been in the World were Commonwealths. I shall not contend with him or any one else about the Name. King, Duke, Elector, Landgrave, is the same to me, all that I struggle for, is to know whether the supream Power is lodg'd in one or many, and if he could prove that the States of *Arragon* were part of the supream Power with the King, he only proves

Arragon

Arragon a Commonwealth, which I am sure is very little to the purpose of Rebellion : if he had laid down that the States had equally Coercive power over each other, upon Male Administration he had enlarg'd his Question from its Intricacies and Shackles with which it was Involv'd. But if he would insinuate that no Nation was under a Legal Administration in which the Supream Power was Invested in one, I make bold to tell him he is mistaken as to Fact, and I shall Endeavour to prove him so in the Sequel.

Our Adversaries therefore vainly Clamour against us, as tho' by asserting the Doctrine of Passive Obedience, we confounded all the Civil Rights of the People, and made Commonwealths bend to Despotick Power, whereas we mean no more than that the Supream Power in every State must be obey'd without Reserve in all Things not contrary to the Law of God. This has been the standing Doctrine of all Ages since the Creation of the World, and has receiv'd a more solemn Sanction from Christianity. The primitive Christians submitted to the most bitter Persecutions, as Acts of the Country in which they Liv'd. Therefore (1) *Tertullian* in his

(1) Quomodo mihi proponere potest scripturam esse. Reddite quæ sunt Cæsaris Cæsari; miles me vel Dilator vel inimicus concutit; nihil Cæsari Exigens, imo contra eum faciens cum Christianum legibus Humanis Reum Mercede demittit. Test de fuga in persecut. c. 12.

Book *De Fuga in Persecutione*, asserts, ‘ That
 ‘ he was an Enemy to *Cæsar* who took
 ‘ Money of a Christian to dismiss him safe
 ‘ from Punishments. (2)

So in his Book *Ad Scapulam*.

‘ Altho’ Treason be laid to our Charge,
 ‘ no *Nigrians*, *Albinians*, or *Cassians*, were
 ‘ ever found amongst us Christians, while
 ‘ at the same time, those who but Yester-
 ‘ day swore by the Genius of their Empe-
 ‘ rors, and offer’d Sacrifices for their Health
 ‘ and Prosperity, and have appear’d most
 ‘ zealous against us, have been the first
 ‘ in Rebellion against their Sovereign; but
 ‘ a Christian is an Enemy to no Man,
 ‘ much less to the Emperor, who claims
 ‘ our Love and Esteem as he is constitu-
 ‘ ted by God; for whose welfare, with that
 ‘ of the Common-Wealth, we offer up con-
 ‘ tinual Prayers; we bestow those Honours

(2) Sic & circa Majestatem Imperatoris infamamur & ta-
 men nunquam Albiniani, nec Nigriani vel Cassiani inveniri po-
 tuerunt Christiani sed iidem ipsi qui per genios eorum in pri-
 die usq; juraverunt, quì pro salute eorum in pridie usq; jura-
 verunt, quì pro salute eorum hostias & fecerant & vove-
 rant, qui Christianos sæpe Damnaverant, hostes eorum
 sunt reperti, Christianus, nullius est hostis nedum Imperatoris
 quem sciens a Deo suo constitui, necesse est ut & ipsum dili-
 gat & revereatur, & honoret & salvum esse velit cum toto
 Romano Imperio quo usq; seculum stabit, tamdiu enim stabit
 Cōlemus ergo & Imperatorem sic quomodo & nobis licet & ipsi
 expedit ut hominem Deo secundum & quicquid est a Deo con-
 secutum, solo Deo minorem hoc & ipse volet sic enim omni-
 bus major est dum solo vero Deo minor est, sic & ipsis Deis
 major est dum ipsi in potestate sunt ejus itaq; & sacrificamos pro
 salute Imperatoris sed Deo nostro & ipsius. *Ad Scapulam*. c. 1.

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‘ upon

‘ upon the Emperor, which are most pro-
 ‘ per for us to give, and him to receive, as
 ‘ next to, and the immediate Substitute of
 ‘ God: Which is as much as he can desire,
 ‘ as he is Second to none but God, and con-
 ‘ sequently above all your inferior Deities,
 ‘ who are under his Protection and Care,
 ‘ we offer Sacrifices for the safety of the
 ‘ Emperor to his and our God.

Again to shew that the Christians in those Days did not want Numbers.

(3) ‘ What will you do with so many
 ‘ Thousands of Men and Women of all A-
 ‘ ges and Qualities, who offer themselves to
 ‘ you, what Fires and what Swords must
 ‘ you have occasion for.

He also shews that Martyrdom was a Crown to be sought after, and not avoided by indirect Means.

(4) ‘ For when we are exhorted to Pati-
 ‘ ence, it has respect to our Passions, and
 ‘ when we are warned to flee from Idolatry,
 ‘ this

(3) Hoc si placuerit & hic fieri quid facias de tantis millibus hominum, tot Viris ac Fæminis omnis Sexus, omnis Ætatis, omnis Dignitatis offerentis se tibi, quantis Ignibus, quantis Gladiis opus tibi erit. ib. c. 4.

(4) Sic & sicut Tolerantiam præcipit, quibus magis eam quam passionibus prospicit, sic ubi ab Idolatria devellit quid ei magis quam Martyria prævellit, plane monet Romanos omnibus Potestatibus Subjici. Quia non sit potestas nisi a Deo. Quia non sine Causa gladium gestet, & quia minister sit Dei, sed ultrix inquit in iram ej qui malum fecerit, nam & præmiserat, principes enim non sunt timori bono operi sed malo, vis autem non temere potestatem bonum face Laudem ab eo re-

‘ this has relation to our being Martyrs.
 ‘ The Apostle commands the Romans to be
 ‘ subject to the Powers that be, because all
 ‘ Power is from God, and the Magistrate
 ‘ does not bear the Sword in vain, but is
 ‘ the Minister of God, and avenger upon
 ‘ those that do ill, for he before said, that
 ‘ Princes are not a Terror to good Works,
 ‘ but to ill, but wou’d thou not fear the
 ‘ Power, do that which is good, and thou
 ‘ shalt have the Praise, for he is the Mini-
 ‘ ster to thee for good. But if thou doest E-
 ‘ vil, fear. So that he does not place the
 ‘ subjection to Magistrates in avoiding Mar-
 ‘ tyrdom, but in a good Life, respecting
 ‘ them as Patrons of Justice, and Ministers
 ‘ of Divine Wrath to the wicked. He there-
 ‘ fore tells you how you shall be subject to
 ‘ the higher Powers, commanding to give
 ‘ Tribute to whom Tribute, to *Cæsar* those
 ‘ which are *Cæsars*, and to God those which
 ‘ are Gods. St. *Peter* says the King is to

eo referes, Dei ergo minister ut tibi in bonum, si vero malum
 facias, time ita non in occasione frustrandi Martyrii jubet te
 subijci potestatibus sed in provocatione bene vivendi etiam sub
 illarum respectu quasi adjutri cum justitiæ quasi ministrarum
 Divini judicii, hic etiam de nocentibus præ judicantis dehinc &
 exequitur quomodo velit te subijci potestatibus, reddere jubeas
 cui Tributum; Tributum, cui vectigal, vectigal, id est quæ
 sunt Cæsaris Cæsari: & quæ Dei Deo, solus autem Dei homo
 condixerat Petrus Regem quidem honorandum ut tamen tunc
 Rex honoretur cum suis Rebus insistit cum à Divinis Honori-
 bus longe est. Quia & Pater & Mater diligentur cum Deo
 non comparabuntur Tert. scorpiac. ad Gnosticos. p. 279. Edit.
 Rhenani.

‘ be honour’d, which Honour is more truly
 ‘ paid to him in his secular Sphere, without
 ‘ regard to his Usurpations upon Religion,
 ‘ because Father and Mother are nothing in
 ‘ comparison with God. See *Tertullian* a-
 ‘ gainst the Gnosticks.

(5) He tells us in his Book about Idolatry, That we ought to be subject to Princes and Powers, according to the Apostles command, provided we do not extend the Precept so far as to incur the guilt of Idolatry. He instances in the three Children, who notwithstanding they paid all due Reverence to *Nebuchodonoxer*, would not pay Divine Honours to his Image. From whence I conclude, that even Idolatry does not vacate a Prince’s Commission from the most High.

In his Apology he gives an Account of the Prayers offer’d up for the safety of the Emperors.

(6) ‘ We invoke for the safety of the Em-
 ‘ perors, the Eternal, True, and Living
 ‘ God; whom the very Emperors, above
 ‘ the rest, desire to be propitious to them.
 ‘ They

(5) Igitur quod attinet ad honores Regum & Imperatorum satis præscriptum, habemus in omni obsequio esse nos oportere secundum Apostoli præceptum, subditos Magistratibus & principibus & potestatibus, sed intra limites Disciplinæ quòsq; ab Idolatria separamur. Tert de Idolatria.

(6) Nos enim pro salute Imperatorum Deum vocamus Æternum, Deum Verum, Deum Vioum, quem & ipsi imperatores propitium sibi præter ceteros malunt, sciunt quis illis dederit Imperium, sciunt qui Homines, qui & Animas sentiunt

‘ They know he gave them Empire, and
 ‘ that he is the only God in whose Power
 ‘ they are, to whom they are Seconds, and
 ‘ after whom they are over all things, even
 ‘ their own Gods; which is no wonder, for they
 ‘ are Superior to Men living, and the Living
 ‘ are preferable to the Dead. Let them ex-
 ‘ amine the force of their Empire, but let
 ‘ them know that all this Strength and
 ‘ Power is deriv’d from God, and they are
 ‘ accountable to him for the same.

(7) *Arnobius* seems to look upon it as a monstrous Calamity, that those could not Reign to whom Nature had given the Right.

(8) He mentions in his fourth Book Prayers for Princes.

‘ Why should our Holy Books be com-
 ‘ mitted to the Flames, and our Houses of
 ‘ Prayer demolish’d, in which the most high
 ‘ God is Worship’d, and Peace and Pardon
 ‘ are call’d down from Heaven for all Men,

unt eum Deum esse solum in cuius solius potestate sunt a quo sunt secundi post quem primi ante omnes & super omnes quidni super omnes Deos Homines qui utiq; vivunt & mortuis antistitent. Recogitant quousq; vires Imperii valeant & ita Deum intelligunt adversus quem valere non possunt per eum valere te cognoscant. Text Apologia ad Gentes. c. 30.

(7) Non Regnant non Imperant quibus fors Rerum attributa est Arnolius contra Gentes, lib. 1.

(8) Nam nostra quidem scripta cur Ignibus meruerint Dari cur inhumaniter Conventicula dirui in quibus summus oratur Deus, pax Cuuctis, & venia postutatur magistratibus Exercitibus, Regibus, familiaribus, inimicis adhuc vitam degentibus & resolutis Corporum vinctione Arnob contra Gente, lib. 4.

‘ for

‘ for the Magistrates, Armies, &c. for our
 ‘ Enemies either alive or dead.

In short, Testimonies would flow in too fast for the intended Bulk of this small Treatise, if I should recount all the Passages in *Tertullian*, and the rest of the Fathers on this Subject in this conspir’d *St. Cyprian*, *Lactantius*, *St. Austin*, *St. Ambrose*, *St. Chrysostom*, *Theophylact*, *Oecumenius*, *Gregory the Great*, *St. Bernard*, with a vast number of Fathers more, who all agreed in the same Note.

No Opinion was ever more universally maintain’d as this, it held its hold without interruption, till within these two or three last Centuries. Rebellion having since gain’d Ground, the Jesuits broke the Ice first, to aggrandize the Pope, and the Phanaticks took it out of their hands, and have manag’d it so well, that there is scarce any Country in *Europe*, but feels the smart at this Day.

What blessed Work it has made in *France*, *Germany*, *Hungary*, *England*, *Scotland* and *Ireland*, let the present Age tell, and the next to come learn Instruction thereby.

I conclude that to resist the Supream Power is to strike at God, and however some Nations may seem to prosper in such a Rebellion against Heaven, a secret Plague will attend ’em and a Curse nip their most blooming Hopes. Division, Factions, and eternal Tumults in the Streets shall be their Lot, and future Ages will

will be only the Vehicle of Ridicule for their Posterity.

Who can think without Indignation upon the Havock it has made with the most flourishing Nations, where are the Glories of the *Roman* Empire, and the artful Contrivance of the *Grecian* Commonwealths? but trampled upon by Barbarians, and even the Histories that inform us of their Rise, their Progress, and their Decay, have scarce come intire to our hands, Foreign force could never have wrought these Changes, they eat first into their own Bowels, to prepare a Receptacle for their Enemies.

Thus have I clear'd the way to come at the *English* Constitution, my next Task shall be to point out the supream Power in our own Country, that we may know to whom we owe this unlimited Obedience.

I laid down that the supream Power being in one or many, was the difference between a Republick and a Monarchy, this ought to be the Critevion of either. But 'tis the misfortune of a great many Persons of Judgment and Sense, to mistake our Constitution for a mix'd Monarchy, which is indeed a flat Contradiction, as will more plainly appear in the succeeding Propositions, for tho' he is bounded by Laws, those Laws are Obligations laid upon himself, they do not proceed from any External coercive Sanction. But to say that he is the supream Power, only while he governs
by

by Law, and ceases to be so, when he acts contrary to Law, is pure *Nonsense*, for Law by Def. 7. is a Canon or Rule by which Men are oblig'd to frame their Actions; which obligation must be either voluntary, or arise from a superior Power, and the Obligation dies with the Imposer. But if the King by acting against Law, forfeit his Power, there must be a Power Superior to his in Being, to whom the Exercise Revolves, and consequently he is only the Representative of the supream Power; perhaps this is what some People mean by the supream Executive Power, which proceeds more from their corrupt and clouded Ideas, than from Truth. But however this they must grant, that if the King is only the Representative of the Supream Power, that Power must be somewhere else; if it be in the People, we run back into a state of Nature; if it is in any lesser Body, it must be a Commonwealth? For a Body of Men may constitute a Representative with full Power, without altering the Nature of a Commonwealth; as *Rome*, when it chose a Dictator, invested with the compleat Exercise of all the Majesterial Powers, the Dictator was the Representative of the Senate, and *Rome* was a Commonwealth still.

No Body will deny, but that if the absolute supream Power was invested in one single State as fully as my own Hypothesis could
suppose,

suppose, that this cou'd be a compleat Monarchy, I ask whether dividing this Power amongst two Persons, or as many more as you please, would not alter the Nature of this Government? by what Name then should we call it? a Monarchy, it could not be, for if the Supream Power invested in two, is consistent with Monarchy; the same Reason holds that Twenty, or a Hundred, or a Thousand, may have the Supream Power in a Monarchy, and consequently *Venice* or *Holland* may be Monarchies, and the Word Monarchy is an *Individuum Vagum*.

If these Premisses are carefully consider'd, a mix'd Monarchy will appear a flat Contradiction; for if a Monarch has not the full Supream Powers originally invested in himself, he must have them somewhere else, and be consequently a Representative of another Power.

If any Person can state any other difference between a Monarchy and a Commonwealth, I shall be glad to find it.

But when we come to our *English* Constitution, we have numerous Contests for and against a Commonwealth, and so unhappy have the Notions of some of the most zealous Asserters of Monarchy been, that while they have fancied themselves contending for Monarchy, the plan they have laid in their heads of our *English* Constitution, has been pure Commonwealth.

The Contests about the dispensing Power at the Tryal of the Bishops in King *James's* Reign, was but a mist to hide a Scheme for a Commonwealth, if some Gentlemen in that Tryal had spoke their plain Thoughts, not disguis'd by Tricks and Collusions, they would have spoke Treason enough, at least to deserve Hanging.

I conclude our Laws have pointed out to us the Supremacy of the King.

Bracton has told us, the King has no Superior but God, in more places than one or two.

But the Supremacy of the King will more plainly appear from a view of the Nature of Homage, 'tis given us in *Littleton* §. 85.

‘ Thus when the Tenant shall make Ho-
 ‘ mage to his Lord, he shall be ungirt, and
 ‘ his Head uncover'd, and his Lord shall
 ‘ sit, and the Tenant shall kneel before him on
 ‘ both his Knees, and hold his Hands jointly
 ‘ together between the Hands of his Lord,
 ‘ and shall say, Thus I become your Man,
 ‘ from this Day forward, of Life and Limb,
 ‘ of Earthly Worship, and unto you shall
 ‘ be True and Faithful, and bear you Faith
 ‘ for the Tenements that I claim to hold of
 ‘ you (saving the Faith that I owe unto our
 ‘ Sovereign Lord the King) and then the
 ‘ Lord so sitting shall kiss him.

From this Homage, I conclude, that all the Land in this Kingdom, is the intire property

perty of the King, and that Allegiance to him is the Condition by which every Subject holds his Lands, which is prov'd by *Sir Edward Coke*, in his Commentaries upon the said *Littleton*. §. 85.

1. There is no Land in *England* in the hand of any Subject (as hath been said) but it is holden of some Lord by some kind of Service, as partly hath been touch'd before.

2. All the Lands within the Realm, were originally deriv'd from the Crown, and therefore the King is Sovereign Lord, either mediately or immediately, of all and every parcel of Land within the Realm.

This Reservation of the Allegiance to the King, *Sir Edward Coke* urges as a proof that the King is the said Lord paramount, and he brings a Case of Complaint against *Walter* Bishop of *Exeter*, that the said *Walter*, to the great Damage of the Kings Prerogative, had presum'd to receive Homage from some Persons therein expressly nam'd, without any Reservation of their Homage to the King.

If the King is only the Servant of the Supream Power, surely a Reservation ought have been insisted upon, in behalf of Homage due to a Parliament. But 'tis so far from that, even the very Members of Parliament were forc'd to do Homage to the King.

Besides his Politick and Natural Capacity are said to be inseperable; if so, the Supream

Power adheres so closely to him that it cannot be separated without pouring out his Blood with it. 'Tis work'd up into the very Composition of the Man, nor can the whole House of Lords or Commons by any State Acts separate one from the other. Consequently he cannot be their Representative. *Calvin's Case* will determine this alone.

The Question was, whether *Calvin* a *Scotchman*, could be look'd upon as an Alien, who was born in *Scotland*, tho' under the Protection of *James* the First, who was King of *England*.

It was Resolv'd by the Lord Chancellor and Twelve Judges, that the Plaintiff could be no Alien. They urg'd, 1st the Politick Capacity could be divided from the Natural only by Death alone. That the Liegiance due to the King, was due to him as a Natural as well as Politick Person, what Liegiance was due from a Tenant to his Lord, I have before insisted upon. But they tell us that there is an higher Connection between a Sovereign and Subject, than Lord or Tenant, which they prov'd by several Acts of Parliament, that the Allegiance due to the King was a Natural Allegiance. The Oath in those times was thus.

' You shall swear that from this Day forward you shall be True and Faithful to our
' Sovereign Lord King *James* and his Heirs,
' and Truth and Faith shall bear of Life
' and

‘ and Member, and terrene Honour, and
 ‘ you shall neither know nor hear of any Ill
 ‘ or Damage intended unto him, &c.

The Antiquity of this Oath is deduc’d even from *Arthur*, they concluded that Natural Allegiance had no bounds or restraint.

They disallow’d the division of his Natural and Politick Capacity, consequently as *Calvin* was Born under the Liegiance of King *James*, he could be no Alien in the Dominions of the King of *England*.

They urg’d, that the King held his Kingdom by Birthright inherent by Discent from the Blood Royal, whereupon Succession doth attend.

Sir *Edward Coke* charges the Notion of separating the Politick from the Natural Capacity of the King, upon the *Spencers*, and says it had execrable and detestable Consequences.

1. If the King do not demean himself by Reason, in the Right of his Crown, his Lieges are bound by Oath to remove the King.

2. Seeing the King could not be Reform’d by Suit of Law, that ought to be done *per Aspertee*.

3. His Lieges are bound to govern in aid of him, and in defence of him, all which was condemn’d by Parliament *Edw. 2. Exilium Hugoni*, & 1 *Ed. 3. c. 1.*

The

The Allegiance of the Subject is due *quar-
to modo, omni soli & semper.*

Crown and Kingdom were taken for the King himself.

Allegiance due to the King by the Law of Nature, antecedent to Municipal Laws, and Kings themselves were antecedent to Laws.

I wou'd draw this inference from what has been said, That the King cannot be either the Representative of the People, or of the Parliament, for if he had been so, *Calvin* must have been an Alien. For the King's Relation to *Scotland* and *England* wou'd have been intirely distinct, which in the Opinion of these Judges, they were not, because they were centur'd in one Person, and were consequently inseperable.

This famous Case of *Calvin* has irrefragably overthrown the Modern Schemes of Repartition of the Supream Power, and has plainly prov'd the King an Independant Monarch, the Oath injoyn'd 1 *Eliz.* c. 1. amounts to the same, *viz. I do utterly Testify and Declare in my Conscience that the Queen's Highness is the only Supream Governour of this Realm,* we have also 16 *Rich.* 2 c. 5. That the Crown of *England* is Subject to God alone. Sir *Edward Coke* has explain'd what's meant by the Crown of *England* in *Calvin's* Case, *viz. The Person of the King whose Poli-*

Politick Capacity is inseperable from his Natural.

Can any one hereafter doubt that *England* is a Monarchy.

My 11th Proposition was that *the Supream Power must be plac'd in such a manner, that in Cases of Emergency it may be capable of Acting.* We must Inquire, what Powers are essentially requisite to preserve Government, if such Powers appear alone Invested in the King, Independantly; it remains that he must be the Supream Power.

The Power of Peace and War is in the King alone, which is certainly a most essential Power; because it includes Protection, and all the most valuable Branches of Government therein; but that this is invested solely in him appears by a Declaration of Parliament 7 *Edw.* 1.

‘ To us it belongeth, and to our Part it is,
‘ through our Royal Signory, straightly to
‘ Defend force of Armour, and all other
‘ force against our Peace, at all times, when
‘ it shall Please us, and to Punish them which
‘ shall do contrary, according to our Laws
‘ and Usages of this Realm; and hereunto
‘ they are bound to Aid us as their Sovereign
‘ Lord at all seasons when Need shall be.

We see here, no new Power collated by the Parliament but a Declaration of an old one, according to the Custom and Usages of the Realm.

By

By the 2 of *Edw. 3. c. 3.* *None but the King's Servants shall appear before any Ministers of Justice Arm'd.* What Latitude is here left to private Subjects to Revenge their Wrongs by force of Arms upon the King's Ministers?

By the 7 of *Rich. 2. c. 13.* *No Man shall Ride in Harness nor with Launcegays without the King's special Licence.* From whence I conclude, that the intire Power of Commissioning Persons to bear Arms was in himself.

Knights Service was a Military Institution which was ever thought proper alone to the King; Sir *Edward Coke* observes in his *Com. upon Littleton*, §. 103. That it was, *Servitium forinsecum quia pertinet ad Dominum Regem non ad capitalem Dominum*; it was also call'd, *Regale Servitium*; because it belong'd particularly to the King. *Et Servitium Domini Regis.* We find a Statute 1 *Edw. 2.* concerning Knights which Sir *Edw. Coke* in his *Inst.* tells us, was a Writ or Ordinance of the King and no Act of Parliament, v. 2 *Inst.* §. 893. in which the Rules about distreining for Knights-Sertice were settled, from whence I conclude, that it was a peculiar Prerogative of the King, and not within the Sphere of a Parliament, it begins thus, *Dominus Rex Concessit.*

The Court of Chivalry was proper alone to the King, and Appeals were allow'd from the

the Sentence of that Court to him, as Sir *Edw. Coke* informs us, 2 Inst. F. 125.

Levyng War against the King by the 25 of *Edw. 3. c. 2.* is High-Treason, there is no exception for a Parliament, 'tis alike Rebellion in them as in private Persons, to recur to Arms against the King.

The Commission of Array was solely Invested in the King; from these Instances I conclude, the Power of Arms is the King's, and was so, Antecedent to any Act of Parliament. No Subject, either in Parliament or out, can Legally bear Arms without the King's Commission, which is as much as can be desir'd for my Hypotheses, For none but the King can Protect his Subjects either from Invasions Abroad, or Violences at Home, and Commissions granted by any other Power, even by a Parliament, are against Law. By the 7 of *Edw. 1.* every Member is disarm'd and forbid to come to the Assembly with offensive Weapons.

No Man who considers seriously will deny, that if the King has an Independant Power, he must be at least part of the Supream, and a most essential Part too: if he shou'd cease to act in Cases of Necessity, when Arms are to be recurr'd to, I wou'd know what shadow of our Laws, or what hint, can be found, that favours the Parliament's assuming the Power of War; consequently they cannot legally, against the King's Consent, even
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wear a Sword, if you justifie their extraordinary exerting themselves by the Powers of Nature, and the Right of Self-defence, you must recur to a state of Nature, which is out of the Sphere of my Question, because by my Hypotheses Government is suppos'd to be already establish'd: Therefore a Parliament cannot recur to Arms before they are reduc'd to a state of Nature, and are past the Obligation of positive Laws, at which time they themselves can be no Parliament. I conclude, the Supream Power must be in the King, because he only can Act by the Right of Arms.

Some perhaps, may say, he is only the Representative of the Parliament in this Case, but that the Power of War was Originally in Parliaments, which 'tis impossible to prove. Kings have been in this Island 1700 Years. But I defy the most Learned in the Law to prove Parliaments half so Antient, therefore the Power must be antecedent to Parliaments, or those Kings had not the Right of War which is absurd to allege of any Government. But I shall adjourn this Dispute to another Place.

The Power of Treaties has been declar'd by Parliament, Invested in the King. But this is equally essential to the Supream Power as making War, for the Sword must not always continue unsheath'd.

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The Power of Pardoning is a particular Prerogative of the King, which is equivalent to dispensing with the Laws, and the depriving the King of this Power, was declar'd unreasonable. See *Coke's Inst.* p. 4. p. 42.

The Power of erecting Counties Palatine is another Proof of our Argument, for if the King can confer the Regalia upon whom he pleases, and the Parliament cannot, he must be the Supream Power, and alone can Act in that Case. But that he can do so is evident from 4 *Inst.* p. 204.

Another Argument I think not fit to omit is, the King can Pardon Treason, but a Parliament without the King cannot; other Powers might be specified which are in reserve.

I conclude, that Activity and Passivity are the certain Criterions of the Supream Power and of Subjection; by Def. 7. *If one Power can do all that another Power can do, those Powers are equal in that Respect.* If therefore one Power can do more than another Power, those Powers are Superiour in that Respect. But tho' in Government there are many distinct ends independant of each other, they are nevertheless subordinate to the main end in Society, which is Government; there cannot be two Independant Powers in Society, more than there can be two Supreams in one and the same Society contrary to Axiom 12.

Power and Action are as Reciprocal terms as Life and Consciousness. You cannot suppose Power without Action, any more than you can suppose Life without Consciousness; for tho' it is not necessary that the Supreme Power shou'd be always making Proclamations and Signing Dead Warrants, nevertheless there is an *ἐνεργεία vis quædam*, which animates the Body Politick, as the Soul does the Body Natural, which Operates even while the Organs of the Body are lock'd up in a most profound Sleep. The Energy enlivens all the King's Court, even when his Body is not there, it gives Strength and Authority to every Branch of Representative Power thro' the whole Kingdom. But as a Body senseless and benum'd with a Palsy, so is the State benum'd when this Energy is Restrain'd by any External Force; when Sedition and Tumults abound, either in Town or Country, or where any voluntary Societys Usurp the Office of the Civil Magistrates, for there when the Supreme Power meets with a Stop, it cannot Circulate thro' that Part of the Body Politick, and tho' the Supreme Power is no more affected therewith, than the Rays of the Sun when they are excluded Entrance into a Dungeon, or a Prison; yet that Part of the Body is Dead and Useless, if not Hurtful to the adjacent Parts.

If this Power cannot Act by Reason of any internal Defect; this as much as to say, that

that Power is annihilated ; for if it cannot Act tis' no Power. By Def. 1. How then can the Supream Power be in Kings, Lords and Commons, joyntly ; when the Lords and Commons have no Existence upon a Dissolution ; if we grant this, all Government begins *De Novo* upon the Meeting of a New Parliament after Dissolution. But then the Prior Acts can no more Bind us than King *Alfred's*, or *Edward the Confessor's* Laws Bind us now.

This Proposition being thus Establish'd, makes way for the following one. *That the Supream Power cannot be in King, Lords and Commons, jointly ; if the King has a Power of Calling and Dissolving Parliaments.*

We must observe in what Capacity a King Calls and Dissolves a Parliament.

A Modern notion prevails that this Kingdom is Govern'd by Three Estates, and that the King is one of the Three Estates. But this is a Mistake, for the Three Estates were anciently the Lords Spiritual, Temporal, and the Commons. 4 Inst. p. 1.

The Writs of Summons testify that the King calls them Authoritatively to Parliament ; they are call'd to Advise and Consult. *De arduis & urgentibus negotiis Regni Nostri Angliæ & Ecclesiæ Anglicanæ Concernentibus*, They are suppos'd not to be the standing, but the occasional Council of
the

the Nation Summon'd. *Colloquium habere
& Tractare cum Rege.*

When they are Met, so Essential is the good Will of the King towards his Commons, Sir *Ed. Coke* observes. 4 Inst. p. 35. That it was one of the Petitions of the Commons to the King, that he wou'd require the Arch-bishop and all others of his Clergy, to Pray for his Estate, for the Peace and good Government of the Land, and for the Continuance of the King's Good Will towards his Commons: He says moreover, how the King in all his weighty Affairs had us'd the Advice of his Lords and Commons, (so great a Trust and Confidence he had in them) always, provided that both Lords and Commons keep them within the Circle of the Law and Custom of the Parliament.

I wou'd ask whether 'tis proper to say that Servants shou'd put Trust and Confidence in their Master, or that they shou'd Petition the Master to bear good Will towards them. I am sure this sounds to me like the Acknowledgement of a Superiour Power,

Sir *Edward Coke* observes when it was demanded by the Lords and Commons, what might be a principle Motive to them to have good Success in Parliament, it was answer'd, *Eritis insuperabiles si fueritis inseparabiles, explosum est illud Diverbium Divide & impera cum Radix & vertex Imperii in obedientium consensu rata sunt.*

No

No Person will deny, who understands the least of our Laws, that the King's Writ is Essential to a Parliament, but if the King is their Servant, their Writ shou'd be Essential to make him a King, and as he Prorogues a Parliament, and Dissolves it, if he is but upon an Equality with them, they shou'd have Power to Suspend or Dissolve the Exercise of his Authority. But what then is become of the Maxim, *The King never Dies*; Or, How can they Exercise such pretended Jurisdiction when they have no Being themselves?

They do not Meet as an Independant and Supream Body, for it was declar'd by Lords and Commons in full Parliament upon *Demand* made of them in behalf of the King, *That they cou'd not Assent to any thing in Parliament that tended to the Disherison of the King and his Crown whereunto they were Sworn.* 4 Inst. p. 14.

The Death of the King Dissolves the Parliament, as Sir *Edw. Coke* observes, 14 H. 4. Summon'd a Parliament *tempore purificationis*, and he Deceas'd the 20th of *March*, following, so as the Parliament was Dissolv'd by his Decease. Thereupon it was a Question whether the Knights and Burgesses shou'd have their Wages, seeing nothing pass'd in that Parliament. 4 Inst. p. 46.

If the King's Death, without any previous Act of his own, Dissolves a Parliament,

it amounts to Demonstration to me, that they owe their Vigor to him, and not he to them; it shows they owe their Being not to the Essential Part of the Constitution the Politick, but the Natural Capacity of the King; for if the first, as the most Learned Judge *Jenkyns* observes, *The Parliament cou'd not Cease upon the King's Death; because the King in his Politick Capacity never Dies.* See his *Lex terræ*, p. 10.

Coke in his Commentary upon *Littleton* tells us, *None can Begin, Continue, or Dissolve a Parliament but by the King's Authority*, §. 164. Which shews the Houses do not Meet by their Own.

Judge *Jenkyns* observes, *The King is the Head of the Parliament, the Lords the Principle Members of that Body, the Commons the Inferiour Members, and so the Body is Compos'd.* Therefore there is no more Parliament without a King, than there is a Body without an Head. §. p. 17.

Sir *Edw. Coke* observes, 4. Inst. p. 2. *The King is Caput Principium & finis Parliamenti.* I am sure if he is the *Principium*, he cannot be the Representative of the Parliament.

We may observe from what has been said, there may be an Interval between Parliaments. But as Judge *Jenkyns* has much to the purpose observ'd, p. 57. *There can be no Interregnum.*

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The same most Excellent Person has in p. 57. made an Observation which plainly proves the Dependence of Parliaments upon the King, which is this.

Queen *Elizabeth* Summon'd her first Parliament to be held the 23d of *Jan.* in the first Year of her Majesties Reign. The Lords and Commons Assembled by Force of the same Writ. The 21st Day, the Queen fell Sick and cou'd not appear in her Person in Parliament that Day, and therefore Progu'd it until the 25th of the same Month of *Jan.* Resolv'd by all the Judges of *England*, that the Parliament began not the Day of the Return of the Writ, viz. 23d of *Jan.* when the Lords and Common Appear'd, but the 25th of the same Month, when the Queen came in Person.

The Derivation of the Word Parliament is from *Parler*, to Consult and Treat. No Majesterialness can be Extracted from the Word which is naked and free from all Terror and Awe.

There is a Difference, even in the Writs, for Summoning the Lords and Commons to Parliament. The first are call'd to give Council, and the latter to Consent, therefore the first are most properly *Conciliarii Regni*.

Whatever Sir *Edw. Coke* may please to say of the House of Commons, being a Court of Judicature, the House of Lords, I am sure, is more compleatly such. The Power

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of

of the House of Commons extends only over their own Members ; and such Instances Sir *Edw. Coke* alleges, which may as well prove a School a Court of Judicature, because the Master has a Power of Whipping his Boys. But we must observe, the King is suppos'd to sit in the House of Lords, which enables the House to Act as a Court of Judicature ; and by Petition to him as Sitting there, Writs of Error are Revers'd or Confirm'd, as Judge *Jenkyns* asserts, p. 102. He observes that Court is only the House of Lords when the King Sits, which proves that he gives Lustre and Vigour to all Authoritative Acts.

Sir *Edw. Coke* observes, 4 Inst. p. 6. *The Parliament does not Commence at the Return of the Writs, but by the Presence of his Royal Person, or his Representatives.* Strange that the Representer's Representative, shou'd have more Power than the Original Master.

I Appeal to common Judgment, whether ever any Parliament did Sit without the King's Writ, which was not Blasted afterwards, when the Laws cou'd have their full Force again : And our own Days can Witness the Convention was made a Parliament by the Prince of *Orange* after he was made a King by that Convention, they were sensible that Royal Authority was Essential to a Parliament.

The

The Houses without the King are no Body Corporate. The Members of either may be Fin'd, Hang'd, or Beheaded, if they incur those Penalties by the Breach of the Laws. But none can say so of the King, because in Parliament or out, his Natural Capacity cannot be sever'd from his Politick. Neither can the King be said to be Virtually in the two Houses, without his own Act or Consent; for that wou'd make him no more than a Representative of the two Houses which I have Confuted.

Thus far have I proceeded to shew what Dependance Parliaments ever had upon the Crown, and what an extensive Branch of the Regale the Proroguing and Dissolving Parliaments is.

I am very confident we want no better Criterion for finding the Supream Power, for that Power in the Interval must be in the King, or Virtually in the Houses, or no where. I have prov'd it cannot lie Dormant. If it is in the King, for that time my Question is granted; but if it is Virtually in the Houses notwithstanding their Dissolution, there has been a perpetual Succession of Parliaments without Interval, ever since the first Parliament began, and the common Maxim, that *the King never Dies*, may more properly be applied to a Parliament. But surely the sending New Writs for Electing Knights and Burgeses vacates the Commissions of

the Old ones, they cannot both be valid at the same time.

Consequently one Parliament artificially Dies to make Room for a new one, which receives its Vigor from the King's Writ without so much as the actual Consent of perhaps one Member of either House. Such Power cannot belong to either a Doge, Stadtholder, or President.

But alas! 'Tis the known Maxim in our Laws, that the Breath of a King which pronounces the Dissolution of a Parliament, is as fatal as the Eyes of a Basilisk, it more than strikes the Body Dead, it annihilates its being. But I have prov'd that the two Houses cannot be the Supream Power after such Dissolution, because they have no Power to Act again, but by the King's Writ.

Thus have I brought the Reader pretty near within view of the Supream Power; the thirteenth Proposition takes away the prejudices which may arise from the common notions of Tyranny, which is unjustly charg'd upon the Highest Power in the Nation, if our Enemies dispute with us about the inconvenience of placing so much Power in one Man; I cou'd answer them from common places out of History, that Oppression has abounded in Commonwealths more than in Kingdoms; and I cou'd tell 'em that a Man of Sense and Spirit wou'd rather be Oppress'd (if Oppression is his Fate) by
God's

God's Vicegerent than by his Equal or Inferiour; there are many turns, and caprices, and humours in the Votes of a Senate, as in one single Monarch, and sleepy Eye-lids, or the want of a Bottle, a Whore, or a Supper, has laid a whole State at the Stake: Away then with all foolish Harangues about Liberty, we never are more free then when we Act according to the Laws of our Country, and shun Deviation from our Constitution. Let us not take up Arms till we can find expresse License from the Laws, and we shall be in no danger of Bloody Feuds and Animosities amongst our selves; 'tis a Contradiction that the Supream Power can be Resisted, because Resistance implies Coercion, which is a Mark of Superiority, and cannot extend over the Supream Power; consequently as there must be such a Power in Society, that Power must be Irresistable.

Some will cry, What shall we be Swallow'd up, shall we Sacrifice all that's dear to us? I answer, that nothing is or ought to be more dear to us than Preserving Inviolable the Sacred Rights of Government; if we pull out but one Pin, the whole Machine drops into Pieces; for which Reason God has laid the Penalty of Damnation upon Resistance in any Case whatsoever, least pretended Cases of Necessity shou'd be brought some-

sometimes into Play, to justifie a most Wicked and most Unreasonable Rebellion.

By our Constitution a King can do no Wrong, has been fully Declar'd by all the Judges and Serjeants at Law; but that a Parliament can do Wrong, we may find Declar'd by another Parliament, if we consult *Coke's Inst.* p. 4. p. 42.

The Laws do not Inteferer with the King's Supremacy, for the King's Prerogative binds the Subject as much as *Magna Charta* binds the King. The Argument therefore proves too much, because it proves the Supremacy to be no where, if it proves any thing at all.

As for the Raising Money only by Consent of Parliament, this proves no Superiority, because neither can the Parliament Raise Money without his Consent, which is still but equality of Power at least.

Pleas of the Crown are *propria causa Regis*, and a Parliament has nothing to do therewith, if therefore the first Conclusion proves the Parliament the Supream Power, the second proves the King so, and what are our Adversaries the nearer.

The like may be said of Foreign Leagues which bind even Parliaments, tho' made without their Knowledge and Consent.

Besides, I would know who made these Laws that Abridge the King of his Power, if they were made by himself, by the same
Rea-

Reason that it has been declar'd, 4 Inst. p. 42. An Act of Parliament cannot bind a subsequent one, so the Act of the Supream Power 500 Years past, cannot bind the Supream Power now. But if those Laws were made by a Superiour Power to the King, and that Superior Power remains now, my Question is given up: But this wants to be prov'd.

My next Proposition that the Letter of the Civil Law has no External Force without a Power, to Execute those Laws needs no enlarging upon, for 'tis evident Laws cannot Execute themselves, and no Government is so loose as to put the Executive Power into the Hands of every Individual.

This leads me on to the next Proposition, to Baffle the Absurdity of the Supream Executive Power being borrow'd from the Legislative, for the Legislative Decrees what shall be done, and the Executive puts those Decrees in Execution; But the bare Execution of the Laws without a Power of Interpreting them, is far from deserving the Name of Supream, that we may as well call an Hangman Supream: But if the Power of Interpreting goes along with this Executive Power, this is Equivalent to the Legislative, for all Laws owe their Vigour to Judicial Interpretations: But the King in this Case is so far from borrowing any Lustre from the Legislative Power, he adds both Lustre and Strength to that. A Man
with

with Legs, and without the power of Walking, is not much unlike such Laws as have not the Executive Power to Back 'em.

But if I shou'd grant the King is the sole Supream Executive Power, in such a sense, that none can put the Laws in Execution but those Commission'd by him. I am very sure some People can never come at their be- lov'd Doctrine of Resistance under the Um- brage of the Laws of their Country.

But if we Imagine the King only the Mi- nister of the Legislative Power, he still alone is Authoriz'd to Act till his Powers are re- call'd, which they cannot be without his own Consent, because he is one Branch of the Legislative Power himself, and has a Ne- gative Voice, and neither Lords or Com- mons have more.

Surely we shall now easily come at the Ir- resistibility of the Supream Executive Pow- er, as some are pleas'd to call the King.

There is no coming at his Person to De- pose, Murther, or Levy War against him, without being Guilty of High-Treason, which is the Highest Violation of the Law that can be: I have observ'd before, that the Crown of *England* is Subject to God alone, conse- quently the King does not receive his Power from Parliament.

No Priviledge of Parliament extends to High-Treason, but Priviledge of Parliament is a Priveledge of a Body Corporate, but if
this

this Body Corporate is the Supream Power of the Nation. Why shou'd not the Privilege of Parliament extend to Felony or Treason.

Why cannot the King do Wrong if he is but a Servant to the Parliament, if he offers Violation to their Laws?

If the Parliament is no Body, without the King; How can the King be no more than their Servant.

How can all Authority be deriv'd from the King alone, as is expresly said, 1 *Edw.* 6. c. 2. if he derives his Power from a Parliament?

By the 1 of *Eliz.* c. 1. Every Member of Parliament was oblig'd to Swear that the King was the Supream and only Governour in all Causes.

The Solemn Recognition of his Supremacy likewise 1 *Jac.* 1. is so Full and Solemn, that I wonder any Person who pretends to the least knowlege of the Law can deny this.

His Power has been agreed to be deriv'd from the Laws of God, as well as the Laws of Man.

The King's share in the Legislative Power was always very great. The Tenor of the Acts run in his Name as Ordain'd by him.

I am come now to my last Proposition, upon which I need say the less, because I have

laid down the most Authentick Records as to our Constitution already.

I asserted that the Supream is an Indivisible Point, by which I mean, that whether it be Invested in one or many, the Power is the same, nor can be Exercis'd by different Persons Independantly; and therefore, it cou'd not be in King, Lords, and Commons; for in that Case 'tis not always in a Capacity of Acting.

2. The manifest Superiority of the King over the Two Houses, Constituted him evidently the Supream Power. Coercion is the most evident Criterion thereof, which the Parliament have not over the King; but the King can Punish them, tho' not as a Corporation, as single Persons, and Offenders, and can Cut them off as such. *Bracton* as Judge *Jenkyns* has observ'd, p. 3. tells us, that *The King has Jurisdiction over all Persons in his Kingdom, and a Power to Punish all Delinquents. He Pardons even in Opposition to a House of Lords, and Commons. He Constitutes Judges, even by his own Authority, to Execute the Severity of the Laws. Nor is even a Speaker of a House of Commons Shelter'd from their Justice.*

To conclude, all that has been laid down in this Book has been Recogniz'd in full and compleat Terms, and made an Act of our Constitution upon the Restoration of King *Charles*; and it was Resolv'd in full Parliament,

ment, that no Persons or Body of Men had any Coercive Power over the King, and all pretence of Resistance disavow'd by a Solemn Oath, which I am sure a great Part of the Clergy ought to Remember, their own Subscriptions to the same, are still upon Record.

I conclude, if any Person hereafter, can without Blushing, assert the Laws to favour Rebellion, he must have assurance proper only to such a scandalous Profession.





APPENDIX.

S I R,



OUR Preface to the *Preservative* divides the Discourse into three Parts. 1st. The Present Civil Establishment. 2^{ly}, A Right in Governours to Preserve themselves against all Ecclesiastical Persons. 3^{dly}, And, Lastly, The Vitals of Religion, and the Cause of Jesus Christ.

The First I shall concern my self with no farther, than as you have made Excursions from your Purpose, and have been Monroding upon the common Principles of Humane Understanding. The Second I shall briefly and particularly Examine and draw forth the Dark Consequences, and Expose them to the World. As to the Third, I shall endeavour to find, whether the Cause of Jesus Christ has receiv'd any additional Confirmation and Vigour from this *Preservative*, pretendedly so call'd.

P. 15. You Challenge any Man to prove that God ever in Scripture Instituted any particular Form of Humane Government, except one for a Nation, whom I suppose to be the *Jews*, from whence I draw



draw these Observations. 1st. That according to your Scheme, *God in the Holy Scriptures never Instituted any Form of Government.* 2^{dly}, *That no Form of Government is of Divine Appointment.* 3^{dly}, *That altering the Form of Government is a Branch of the Peoples Natural Rights.* 4^{thly}, *That Monarchy was a Form of Government displeasing to God, and bestow'd upon the Jews as a Punishment for their obstinate and peevish Demands.* The 3^d and 4th Observations flow from your own Words, viz.

“ Search with your own Eyes, and see whether
 “ you can possibly find a plain and exprefs Passage
 “ of Scripture, in which God Instituted any parti-
 “ cular Form of Humane Government for any
 “ Nation in the World, except one, which first
 “ wilfully and resolutely chose it for themselves,
 “ or in which he Commands all Nations either to
 “ keep firm to that one Form, or when once they
 “ have for any length of time been under Subjec-
 “ tion to a Race of Princes, that they are oblig'd
 “ upon pain of Damnation, not to put by the next
 “ in Blood.

As to the First, We shall find this false in Fact. The Jewish Government was Divinely Instituted after their Passage thro' the Red Sea, and was moreover, purely Monarchical. The 70 Elders Chosen by *Moses* were Subservient to him, and he Communicated to the People God's Commands as a Vicegerent, the only difference between their Government, and that of their Neighbours, was; the peculiar Revelation of the Will of God vouchsaf'd to 'em after *Moses's* Death. God himself transfer'd the Supream Command to *Joshua*, after whose Death every Tribe Govern'd themselves. But under the immediate Inspection of God who rais'd up all those Captains, who Deliver'd them from

from their Enemies. This Theocracy was therefore a Monarchical Government.

1st. The Judges who occasionally arose, acted as his *Substitutes*. Moreover, Whatever Malicious Insinuation you are pleas'd to put upon the Choice of Monarchical Government to satisfy the Demands of the People; you cannot deny but that the Institution was from God: If he gave Kings in his Anger, why did he not take them away when his Anger was remov'd. The Plague, the Sword, and the Famine, were but short liv'd Miseries, but God Entail'd, according to you, a long Series of Monarchical Plagues upon his People.

God afterwards Erected a New Government upon the Division of the Tribes, and Constituted *Jeroboam* King over *Israel*, and we Read of his frequent Interposition in Deposing and Making Kings, both over *Israel* and *Judah*, which Revolutions cou'd not Involve the People in Rebellion, because they were done by the Immediate Authority of the Supream Power of the Universe. But the Treason of *Athaliah* was of another Nature, I suppose, she had some Theological Casuist who wanted to be *Baal's* High Priest, and perswaded her, she ought, for the sake of Religion, to Imbrue her Hands in the Blood of a Young King. But however, this Fact stands Recorded to Posterity as a Rebellion, I suppose, for some other Reason, besides its being Unfortunate.

I shou'd be very sorry if the Bishop of *Bangor*, shou'd make any farther Demand of this Nature upon me for the future. I observe from the Second, you wou'd infer that no Form of Government is of Divine Appointment, for if no particular Form of Government was ever Appointed by God, he consequently never Appointed any Government at all; if Government therefore is a meer Humane Institution,

tion; the same Power that Instituted Government first, may Dissolve the same, I cannot see therefore why a Highway-Man in the Road to Tyburn may not declare the Institution Void, and reasonably Demand of the Sheriff to be Untied, and sent about his Business.

From the Third, That the Particular Form of Government may be chang'd by the People, and that they are not Tied to Subjection to a Race of Princes: I observ'd, that you struck at the Present Government, you give 'em to understand, *That if a Prince of Wales should not give hopes to the People of proving a Good King when it should come to his turn, they might Dissolve the Monarchy, and turn it into a Commonwealth at their Pleasure.*

From the Fourth, I observ'd a most Contemptuous Expression against Monarchy, as if it was only the Result of Divine Vengeance, surely for this Notion you was not made a Bishop, for my Part, if what you say is true, I should add this Prayer to the Litany, *from all Monarchical Government, Good Lord deliver us.*

You are pleas'd in the succeeding Page to crave a very small Request, which seems not at first unreasonable to Grant; but the Consequences you draw therefrom, I am sure deserves not that Character, because from a pretended Liberty of Disobeying Ideots and Lunatics, you take occasion to Depose Princes as much in their Senses as your self; you might know that the Actions of Ideots and Lunatics are not properly Humane or Moral, but Brutal; and are Consequently no more Objects of Obedience or Disobedience, than Contradictions are the Objects of Power.

If a King of *England* should have the Misfortune to have a Son, Heir to his Crown, a Lunatick, or an Ideot, his Right would not Revolve to the
Peo-

People. He wou'd be only in a perpetual State of Infancy, and it wou'd be equally High-Treason to Murder him, as to Kill the Wisest Prince in Christendom.

This Instance therefore, can never prove what you pretend it ought to prove, because, here no Right Devolves to the People, no Change of Government ensues, nor no Transferring Allegiance from one Family to another.

Where an Express and Unlimited Command is deliver'd in Scripture, no Restriction must be allow'd but what is so Obvious and Reasonable, that all Mankind shall agree thereto. It must be such as no ill Consequences can be drawn therefrom, no Deposing Rightful Princes in their Senses under the Notion of Lunatics and Ideots.

You tell us the Doctrines of the Church of *England* does not oblige us to acknowledge them as True, because they are the Doctrine of that Church, but as they are Conformable to the Gospel of Christ, to which I heartily and readily Subscribe. But then, Can you not deal Sincerely? Can you not frankly let us know how far the Church of *England* has Err'd in Matters of Faith? And then tell us why you Continue in her Communion (as you pretend) whether you are not a Bishop of this Erroneous Church, and have not, or will not again readily Subscribe to those Errors?

Tell me why you will not Communicate with the Church of *Rome*, your Answer shall be, *Because she imposes Erroneous Tenets as Articles of Faith*, but according to you, *Does not the Church of England the same*: Why do you not leave her pretended Communion, for she Inculcates the Doctrine of Passive Obedience as an Article of Faith in the Homilies, she presses it to us with Texts of Scripture, and re-

com-

commends a strict Adherence to that Doctrine, under Pain of Damnation.

But the Sons of Latitude, (with Grief I speak it) in these Days shall Deny what Articles of the Church they please, and yet shall grasp at her Preferments: So far has this been carried, that one who calls himself a Divine of the Church of *England*, enjoys a most considerable Preferment in the Face of the World, has perhaps the most Illustrious Audience in this Kingdom, yet this Man recurs to the same Miserable Subterfuge with your self, and under the specious pretence of Dissenting from his own Subscriptions in smaller Things, he has taken away the Divinity of our Blessed Saviour.

I cou'd not but Smile to Read your 21st Page, the Statutes must be Mollify'd to make Way for the Deposing Doctrine, nay, they are reduc'd to by Laws, which may be set aside by the Supream Power in every Man's own Breast; I thought the Laws and the Constitution, was ever the Pretence of your Party, if the King Mollifies the Laws, he Forfeits his Power, and Degenerates to a Slave, but the People have a two edg'd Sword in their Hands, they can Fight the King with his own Laws, or with a Superior Law of theirs.

But wou'd any Man argue so meanly as your self, with begging a Question you take advantage to raise such Monstrous Conclusions as Destroy the very scope and end of the Laws of our Country, What do you mean by insisting upon the Universal Law of God in this Question? If our Laws are against the Universal Law of God speak it plainly, if they are not, Why do you plead the Universal Law of God in Opposition thereto?

Your Notion of Self-defence has been stated in the preceeding Book, you have carry'd it by this time to no contemtable height; 'tis advanc'd above

all Earthly Laws, and Sanctify'd as the Universal Law of God, by this time, it may shake Hands with Mr. *Hobbs*; for I am sure, this Consequence follows, That no Laws of a Country can take away from Men that Right of a Self-defence, and all Executions are mere Acts of Hostility.

But the Paragraph closes with a very bold Assertion, and introduc'd with such an air of Assurance as tho' all Men had agreed thereto: You tell us an Ideot Ceases from all Right to the Personal Allegiance of his Subjects: I am sure, no Judge in this Kingdom will tell you this is Law. I cannot tell you what may come to pass if he shou'd be a Popish Ideot, but with a Protestant Ideot I am sure it will not hold.

Well, but you are very confident a Popish Prince is worse than an Ideot, or a direct Madman, I suppose you Restrain this Assertion to some bounds, it must be provided that he is a King over a Protestant People, otherwise, he may be as Sedate, Wise, and Merciful, as another Man; a King of *Spain* may be as well Belov'd by his Subjects, and in as fair a way of making them an Happy People, as a King of *England* here, tho' a Protestant: But if he shou'd be Transplanted to a Protestant Country, I shou'd not at all wonder if he Commences a Lunatick, but whether it may be his, or the Peoples Fault let the World Judge.

Antipathy I confess will Work strange Convulsions in Nature, which may perhaps, give an Account of this wonderful Disorder in the Politick Capacity of a Popish Monarch.

I beg the favour to Propose one *Quere*, Whether a Protestant Prince, plac'd over a Popish People, does not Commence a Lunatick or a Madman, but this is a Dangerous *Quere*, it affects some People very nearly.

I am

I am very sorry to find p. 25. *That King James Commenc'd a Lunatick, or an Ideot in England*, the poor Unfortunate Prince Shin'd with a better Character Abroad, I am sure 'tis Barbarous to Disturb the Ashes of that Monarch, and 'tis Cowardly, because, you know, he can't be Defended without making some Reflections at this time not proper.

But with him you are pleas'd to fix a Charge, intirely Groundless, upon Seven Bishops now with God. Nay, altho' they are Dead, I can bring manifest Proofs of the Falsity of their setting their Hands to the Invitation of the Prince of *Orange*.

Has the Government no better Advocate than your self? Can you build an Hypotheses upon no other Foundation than imagin'd Lunacy? I conclude, that never was a more weak and trifling one Insisted upon in this World; for in Restraining an Ideot, you do not Restrain his Will, because he has none, and therefore, what he does cannot be the Object of Law; a King Imprison'd by his Enemies cannot be Oblig'd by their Force and Threats to Concessions prejudicial to his Just Right; because what he does is not the Effect of his Will, but 'tis the Action of another by the Mediation of his Organs, so Lunacy is a Restraint upon the Understanding, the Will is bound and fetter'd by unapt Organs, and all the Childish freaks he performs are not properly his own, because they are not the Effects of his Will; I must therefore observe, you have laid down a wrong Position upon which you Build your ridiculous Hypotheses.

If a Parliament is compass'd with Guards and Armies, Can the Votes extorted from them be look'd upon and obey'd as the Real Votes of the House, by no means; they are not the Votes of the House, but the Votes of the Army.

This is all I shall urge from your First Part, as to the Second, I shall not enter upon the Merits of the Schism; I shall be perfectly Neuter in that Case, and only let the World see the tendency of what you have advanc'd.

P. 33. You tell us, " Whatever Power or Authority is Conferr'd upon Bishops by Spiritual Persons at their Consecration, yet the Right of Executing or Exercising this in their particular Diocefs, ariseth originally from the Nomination of the King. Nomination is Vested in the Crown by the Laws, and is ultimately Resolv'd in the Supreme Authority of the Nation—— The Right to Execute the Episcopal Office in a particular Diocefs, coming in our Constitution from the Civil Power, may be taken away upon great Occasions by the same Supreme Power. From whence I observ'd,

1st. That according to your Hypotheses, the Consecration of a Bishop Invests him with no Authority to Preach the Gospel, and that the Consent of the King is Essentially Necessary thereto, and as the King is the Representative of the People, and all Men are by Nature equal, the Preaching the Gospel can be no Authoritative Act in it self, but as it is deriv'd from every Individual, so that every Man has Originally the Power of Preaching the Gospel, of Exercising the Episcopal Character in himself, because from him alone they are deriv'd. Consequently the Primitive Clergy were Usurpers, they Invaded a Jurisdiction which did not belong to them, and were Worthily Persecuted for the same by the *Roman* Emperours. *Martin Luther*, *John Calvin*, and all the Foreign Reformers came under the same Denomination, in assuming any Clerical Powers against the Consent of the Civil Governours. Ring *James's* High Commission Court
can

can after this, be no longer call'd in Question : Both the Bishop of *London* and Dr. *Sharp* were Justly, and Worthily Suspended.

The Reformation in *Edward* the Sixth's Days was Legal and Evangelical, and the overthrowing that Reformation in Queen *Mary's* Reign was the same.

But give me leave to tell you, Sir, you drew Arbitrary Consequences from the King's Nomination, which was no more than a Concordate between the Church and the State, in consideration of the Temporalities ; but to urge that this Confers Power, is to say, that a Lay Patron when he Presents a Person to a Living, gives him a Power to Preach the Gospel, Administer the Sacraments, in that Parish ; which is evidently false, because the Presentation is of no Value without the Institution of the Bishop ; otherwise a Lay Patron may as well Transfer those Powers to a Laick, or Preach himself, as give them to a Clergyman. But let me know, my Lord, if without the Consecration, a King can give to any Person Authority to Exercise the Episcopal Powers, if he can, he makes Bishops by Authority deriv'd from his Masters, the People ; if he cannot, the Consecration gives somewhat to a Bishop which the Prince cannot take away, according to your own Hypotheses.

I desire you to turn your Eye over some of your former Treatises in behalf of the Rights of Episcopacy, in your Defence of Episcopal Ordination, c. 3. §. 2. p. 30. (a) I find that Bishops have lost ground

(a) The Apostles did indeed, in the Case of an Office, which they thought too different from the main end of their Apostleship for themselves to attend to, put it upon the People to Nominate the Persons whom they thought proper to be Deacons, but in the first place it doth not appear that they accounted this any Privilege of the People. *Brief Defence of Episcopal Ordination*. c. 3. §. 2. p. 190.

ground since that Book was publish'd, and your appealing to the Laws of the Land, when the Controversy is about a Divine Right, is advancing the Laws of the Land, above the Laws of God. But I hope in a short time the *English* Constitution will be clear'd from such a foul Sacrilege; your Appeal to the Laws of the Land, against the Rights of the Church, will be found as Groundless, as your Appeals to the Laws against the True Constitution in the State.

In the succeeding Paragraph a manifest falsehood appear'd, which I was Astonish'd at to find dropping from the Pen of one who calls himself a Bishop, viz. *That the Bishops had upon their bended Knees acknowledg'd they held their Bishopricks and Possessions of the same, as well Temporalities as Spiritualities of the King's Majesty*; whereas in all the Oaths of Homage that I have Read, the Temporalities are expressly mention'd without the Spiritualities.

Your next point, and indeed it is a grand one, is to prove from the Nature and Extent of the Power of Self-defence, that the State may deprive Bishops, but the Argument I take to be Naught, and to have the worst Consequences attending it.

I shall readily grant with you p. 44. That the Gospel has not Abridg'd the State of those Powers which are Essentially necessary to the Preservation of Society, and which belong'd to the State before Christianity appear'd in the World. But Christian Society is an Institution which does not interfere with the State. This was Demonstrated in the *Elements of Policy*, its End, its Rewards and Punishments were intirely different, and when the Spiritual Governour moves beyond his Sphere, and inroaches upon the State, our Religion does not protect him from Civil Punishments.



ments. Therefore Civil Society by what a Bishop can do in his proper Station, is no more affected, than the Affairs of our Earth are affected by the Transactions in the World of the Moon.

Your Case of Praying for the Destruction of a Government by what has been laid down, is easily answer'd, mixing Civil Affairs in our Prayers of Intercession, and Thanksgiving, is so far a Civil Act as it affects the Fortune or Life of my Neighbour, because 'tis the part of the Civil Magistrate to defend both from Damage; if therefore a Priest prays for the Destruction of a Lawful Monarch, the Sovereign may Punish him for the same, but not with Spiritual, but Carnal Weapons, he may divest him of his Temporalities, and if he pleases, put him to Death. But I cannot see how he can Dissolve during his Life the relation between his Flock and him. This Civil Power, as it extends to deprivation of Life, is surely sufficient to answer all the ends of Self-preservation, without inroaching upon Spiritual Authority. The Magistrate, I in my Conscience believe cannot dissolve the Contract between a Man and his Wife, tho' he may Hang the Man for Treason, or other Crimes committed against the State.

But praying for the Destruction of a Lawful Government, I may be bold to say, was not the Case of the Nonjurors at the Revolution, because they mention'd no Names; they pray'd for the King, and altho' their Opinions differ'd in relation to the Person, they desir'd their Prayers shou'd tend to the Benefit of none but the Lawful King whosoever he might be. This we may presume from their known Characters, which their worst Enemies who have any sense of Truth will bestow upon them for Piety and Sincerity.

If we consider the State of the *Roman* Empire before *Constantine*, Usurpers frequently broke into their Duty to their Prince, and caus'd themselves to be proclaim'd Emperors. The Primitive Christians, we may reasonably suppose continu'd praying after their old Way for the Emperor, without mentioning his Name, which in those times was never done. Did *Albinus*, or *Nigrinus*, put the Christians to Death, or deprive them of their Bishopricks, for praying for the Destruction of the Government, because they did not mention *Albinus*, or *Nigrinus*, in their Prayers.

Your Comparison of Great, or Less, adapted to things of a different Species, is a New Logick to me; an Horse may be small, in comparison with an Elephant, but he may be a large Creature, compar'd with another of the same Species: Deprivation and putting to Death are distinct powers, and not compatible with the same Persons consider'd in one Capacity, and therefore they cannot be compar'd together as greater or less, neither can one be included in the other,

I can meet a Bishop upon the Highway, and knock out his Brains; the deprivation, as consequentially follows, as if the Civil Magistrate sav'd me the Labour by doing it himself: But will you say that any single Person can divest a Bishop of his Episcopal Character, or that an Highwayman instead of Shooting him thro' the Head, may deprive him of his Sacred Titles, and reduce him to the state of a Layman? If this be the Case, I beg of you to Travel with a strong Guard.

You tell us a Right to Imprison (p. 51.) includes Deprivation, from whence I conclude: The Seven Bishops were effectually depriv'd by King *James*, when they were sent to the *Tower*, and that a Bishop

is

is effectually depriv'd when he is laid up with the Gout.

Abiathar will not reach your Case in the least, for these Reasons, the Center of Unity in the *Jewish* Church was not Personal, but Local, and was confin'd to the Temple at *Jerusalem*; therefore, no Schism cou'd follow from *Abiathar's* Punishment. 2dly, I cannot find that *Abiathar* incur'd any other Penalty than Banishment, which consequently prevented his performing the Priestly Office, which cou'd be done no where but at *Jerusalem*; you may as well argue, that if the *Egyptians*, or any publick Enemy of the *Jews*, had taken *Abiathar* Prisoner, and carried him into another Country. That they had a power of depriving him. 3dly, As *Abiathar's* Life was forfeited by Treason, *Abiathar*, for ought we know, might Compound to relinquish his Priesthood to save his Life.

Deprivation is, good Sir, a pure Spiritual Act, it can no more be said to be included in the Act of Banishment or Death, than a Man can hold a Spirit in his Arms. The effects of it are Invisible, the Spirit leaves the Person depriv'd, and the secret and ineffable Workings of God's Grace peculiar to his Priestly Character desert him. But does this consequentially follow from Banishment? If the Authority is deriv'd from God, none but God can take that Authority away, and the Christian Priesthood is so contriv'd, that distance of place does not prevent the Influence of its power.

I was therefore much scandaliz'd at this Notion, because it brings the Argument to this Dilemma, either the Episcopal Powers are not deriv'd immediately from God, or the Civil Magistrate can Suspend a Divine Institution by a Superiour Power of his own.

N

You

You are pleas'd to mention *St. Chrysostom*, but in such a contradictory and absurd a manner, that I am very sorry that Primitive Confessor's Sacred Memory shou'd be so tarnish'd ; you seem not to like the Parallel, and you still beg the Question, in supposing that if *St. Chrysostom* had been deservedly banished, his See must have been vacant. But however you tell us, 'tis nothing to the purpose, unless *St. Chrysostom* had been a profess'd Enemy to the State. But you add one Circumstance which would indeed have made his See vacant ; if he had denyed Communion to all who would not joyn with him against the Emperor.

But however from *St. Chrysostom's* Case we gather particulars not over favourable to your Scheme ; the Banishment was not look'd upon as including deprivation, his Flock adher'd to him to his Death, and would not own his pretended Successour, which I think is sufficient to my purpose to overthrow your Hypotheses.

You discover more Heat than Candour in your 53d Page. You say some men claim more Power under this umbrage of the Invalidity of Lay-Deprivations than Christ ever claimed ; I profess I cannot find that any earthly Power could depose him from his everlasting Priesthood, altho' they cou'd put him to Death. But this is, you say, an enormous Claim, and full of Blasphemies, but Blasphemy against whom is still a Secret, I heartily wish some succeeding Paragraphs give not more occasion to complain of Blasphemy than the Notion of the Invalidity of Lay-Deprivations ; Blasphemy I do assure you, Sir, is a very hard Charge, and ought to have some better Foundation than a meer assertion.

You plead admirably well in Defence of Pagan Supremacy, in your 53 and 54 Pages, and you adhere very strictly to your notion of Deprivation, being included in putting to Death ; but, I beg the favour to ask

ask whether the Majestrate has a Right barely to deprive a Bishop of his Office, without banishing or putting him to Death ; if not, the Deprivation by putting him to Death is accidental, and not the effect of any Right, or you begin at the tail of the Question.

But let the worst come to the worst, I have extracted one Conclusion from this Paragraph, of no Trivial Consequence.

A Pagan Prince without the Imputation of Being an Idiot or a Lunatick, might be a Governour over a Christian People ; but a Papist cannot be a Governour over a Protestant one, from whence I conclude, The Devil is more in Popery than in Paganism, for a Pagan Prince is so far from being incapacitated to govern Christians, that he can warrantably deprive a Bishop who should insist upon such an Incapacity.

I have one *Quere* to ask, Whether the Grand Seignior is a Lunatick or no ?

I hope, Sir, you will not be Affronted at this Important *Quere*. 1st. The Grand Seignior has often extended his Conquests over the Protestant Churches in *Transilvania* and *Hungary* ; I wou'd willingly know whether he was Capacitated to be their Governour or no.

By this time, after having admirably well prov'd, that all Princes, but Popish ones, have a Right to Preserve themselves by what Means they think fit. The Cause of Jesus Christ is next to be Defended after a manner peculiar to your self.

It begins p. 72. At the very Root of all Spiritual Authority we are told, that the Benefit of God's Appointments does not depend upon a regular, uninterrupted, Succession of Rightful Bishops, which was never yet kept up in Fact. By the Divine Appointments, you must mean the Sacraments, and all those Ministerial Functions that respect the Laity, from whence I observ'd, that as Succession is

only a regular Derivation of Power, the performance of all the Ministerial Functions might be assum'd by any Person, Episcopical Succession is no more than transferring those Powers which Bishops enjoy'd themselves to others. But if those who are not Bishops can transfer such Powers, they are common, and may be assum'd at pleasure, therefore, any Layman may preach the Gospel, administer the Sacraments, offer Prayers in a publick Congregation; for if the Benefit of those Appointments do not depend upon Episcopical Ordination; they are Valid if perform'd by one who has not that Ordination; therefore all Dissenters in *England* regularly and duly Administer the Sacraments, their not being in Communion with Right Bishops, by your own Confession does not destroy the Title to God's Favour.

A Bishop at his Consecration receives no more Power than he had before, thus we may easily come at the Lay Deprivation, for if a Prince takes away the Temporalities from a Bishop, he takes away all.

I heartily Congratulate your Care and Industry, to remove one Difficulty, in order to bring us more nearly to the prospect of *Oliver's* Days. You have taken away the Intolerable Load of Prelacy, this is the first Blow you strike for the Vitals of Religion, and the Cause of Jesus Christ.

But however you was not of this Opinion in your *Defence of Episcopal Ordination*, c. 1. §. 1. (b)

I wish

(b) First, Bishops have a long and immemorial Possession of the Power of Ordination to plead for themselves, and with this the Confession of the greatest Patrons of the Presbyterian Cause, that such a Confinement of this Power to them is in it self Lawful; the most Learned of them have never been able to produce any positive Proof of any time in the Christian Church since the Apostles Days, when it was esteem'd the Office of every Minister of the Gospel to Ordain others to the Ministry, or when this Office was not acknowledg'd by all who speak any thing of it to belong to single Persons, Superior to the ordinary Presbyter. *Def. of Episcopal Ordinatio*. c. 1. §. 2.

I wish you wou'd give us some grounds to believe that an uninterrupted Succession of Bishops has not been kept up with us from the Apostles Days, I know of no Sham Consecrations, except the *Waldenses* and *Bohemians*, who, I believe, never found much Credit.

Whatever therefore you urge against an uninterrupted Succession, p. 78. is of no Force, for Lay Baptisms, and Forg'd Pretences to Ordination cou'd not effect the Bishops, their Consecrations were always Publick, and guarded with so much Care, that I defie you to prove even the possibility of such a Cheat.

Well, but you tell us, p. 80. That such Principles will not bring the Reformation off clear, which shews how little you understand 'em: You might be sensible their constant and avow'd Principles were, that if a Christian Bishop, or the Majority of the Episcopal College, shou'd impose unlawful Terms of Communion, they cou'd be no longer Bishops of the Catholick Church, because they were Members of a Communion inconsistent with that Church, and it becomes from that time the Duty of every particular to seperate from 'em: Upon this Foundation the Reformation in *England* is, and ever will be Justifiable.

But however the Majority of the Episcopal College in *Edward* the 6th's Reign was by far on our side, the few who stood out were depriv'd of their Temporalities by a Commission, but of True Spiritualities they cou'd not be depriv'd, because the Spiritual Relation between them and their Flock was Cancell'd by their being Papists; as for Queen *Elizabeth*, she only Restor'd the remainder of the Episcopal College, depriv'd by Queen *Mary*, upon whom the Lay deprivation ought to be more truly fix'd.

You

You never heard that the Popish Church in *England* or *Ireland* was Condemn'd by the Nonjurors, as no Church, but you might, that those Churches were ever Condemn'd as Schismatical, because they were the cause of breach of Communion, the Nonjurors therefore, if I be not mis-inform'd, put them upon the same foot with the rest.

I wonder therefore, that a Person of your Sagacity shou'd insist upon such Quibbles, Turnings, and Windings, from the true State of the Question; you urge against us the the Popish Anti-Bishops whom we are so far from Defending, that we Reject 'em as Schismatics, by Rejecting their Communion, because the Catholick Church can consist but of one Communion, and if one Party is in the true Catholick Communion, the other cannot be in the same; neither do we derive the Validity of our Ordinances from the Papists as such, but from their having a Commission from Christ, how much soever it has been abus'd, and drawn in, to favour Spiritual Rebellion; therefore I will be bold to say, in the behalf of the Nonjurors (tho' I do not design to Interest my self in their Disputes at this time.) If the Schism shou'd ever be heal'd by the Condescension of the Bishops in Possession, they wou'd be receiv'd by those Nonjurors, with open Arms, as Bishops, and be Confirm'd as such in their Respective Diocesses, with out any New Consecration; but if a *Conge de Lire* shou'd be Directed to a Dean and Chapter to Choose a Lay Person, and Invest him with pretended Episcopal Powers; such a Person, if the Schism was heal'd, wou'd be never Acknowledg'd by them as a Bishop, or Confirm'd as such; I use this as an Argument to you, to prove you have not done that Party Justice in Representing them more bountiful in their Concessions to Papists than to Protestants,
for

for 'tis my Opinion, they give to both Quarter alike, who are not of their Church.

To state their Notions more plainly, in order to obviate your Scheme ; if we suppose the Island of *Sicily* to have a Set of Popish Bishops, with a successive Imposition of Hands from the Apostles, if those Bishops should come to a sense of their Errours, and cast off the Superstitions of Popery, and at the same time ; not refuse Communion with any Branch of the Catholick and undefil'd Church, they would from that time Commence true Catholick Christians and Bishops, of the same Catholick Church ; but no Commission for that purpose can be good, without a Successive Imposition of Hands from the Apostles, because all Episcopal Powers are deriv'd from them alone ; if therefore *Martin Luther* shou'd have call'd himself a Bishop, he wou'd have been as far from being really so, as an Usurper wou'd be from a Lawful King.

Upon such a Succession our Reformation is Built, which has been Preserv'd like a Jewel in a Dung-hill, Safe, thro' all the Corruptions and Filth of Popery : And 'tis like a Commission from a Prince which retains its Reputation and Vigour, altho' it has been Ravish'd by Rebels, and Abus'd beyond the purpose thereof.

You ask a Material Question, p. 84. viz. If false Doctrines Justifie a Separation from a Regular Succession of Bishops. Who is the Judge of these false Doctrines ?

I Answer, That in plain and evident Points, a private Conscience is Judge ; but in disputed and undetermin'd Points, a private Judgment takes no place ; but the Resolution of the Church must be expected.

If a Prince Commands me to break the 5th Commandment, my private Conscience Commands me
to

to Disobey him, but this does not give me a Power to draw to my Decision, Questions foreign in their Nature to an exprefs moral Command.

The persuasion of an erroneous Conscience has no place in this Dispute between you and my self; for the Conscience cannot be deceived in plain Morality, and if the mind of Man will pry into dubious Questions, it can be no more justifiable or valid, than if a Civilian should arrogate to himself a Branch of Judicature in the common Law of *England*.

Your 86 and 87 Pages speak their Author to be a true Son of Latitude, you plead therein as much for *Judaism* and *Mahometanism* as for Christianity; you make every Man's Conscience to be standard in all cases, for if the Conscience can never be so far wrong as to make a Man incapable of being justified by any Determination thereof; I cannot tell but there may be found conscientious Jews, and Conscientious Mahometans, and for ought I know to the contrary, conscientious Hotentots: But if all Religions are reduc'd to this level, farwel all Religious Contests. The Nonjuring end the publick Churches are both Right, if well meaning honest Persons can be found therein.

You may endeavour to fling this off as the result of the Nonjuring Principles, but 'tis purely your own, for if you deny all Church Authority, such Consequences infallibly flow. Your 88th Page opens the Scene, and you tell the Laity in plain terms, that the first Reformers, scorn'd to insist upon such Trifles as a regular succession of Clergy, (which by the by, is an utter Falshood;) They reformed upon a persuasion in their own Minds of the necessity of departing from the Papist, and yet this very Notion you call an unchurching one in the preceding Paragraph, this unchurching Principle you have carried
on

on to a compleat height in your 89 Page, we cannot without renouncing Christianity expect Gods Graces, Benedictions, or Absolutions from any Hands but his own, nor can we put the eternal Happiness of Mankind in their agreeing on external Communion with any one particular set of Clergy without affronting God.

Altho' I have not declar'd my self of any particular Communion hitherto, I do assure you, I am as one upon a worse occasion said before me, a Christian; and I must at the same time assure you I cou'd forgive the last cited Paragraph from a *Jew*, a *Turk*, an *Indian*, *Brachman*, to come nearer, a *Toland*, a *Collins*, or any one but a Christian Bishop, under the fair pretence of asserting the Vitals of Religion, and the Cause of Jesus Christ, *Horesco Refere-*
no, you have, as far as lay in your Power, made the Christian Religion a mere Imposture, you have made the Church of *England* only the Youngest Daughter of Delusion, and the Nursery of Priestcraft.

For if the terms of Salvation do not depend upon any set of Men, a set of Clergy is so far unnecessary, that Salvation may be as compleatly obtain'd without them; Preaching is the only part of their Office which can be useful to Mankind, and that no farther than as it harangues the People into a Consideration of Religion.

Administring the Sacraments is a mere insignificant Operation; they are no terms of Salvation, and confer no Grace. The Bishops have no Power of Benedictions, consequently when they Bless the People they Lye in their Hearts, because they have no Power.

But then, Sir, you are inexcusable in not Renouncing a Character which has entail'd upon you such pretended Powers, you was sent forth when
 you

you was Ordain'd Priest with a Power of Forgiving and Retaining Sins, and Asserting such Power is as you say Renouncing Christianity, you have already Renounc'd it in Form, by receiving Orders in that Church, which in the Service for the Sick has repeated the Power of Absolution in as strong Terms as Words can make.

' Our Lord Jesus Christ who hath left Power to
' his Church to Absolve all Sinners who truly Re-
' pent and Believe in him, of his Great Mercy for-
' give thee thine Offences, and by his Authority
' committed to me I Absolve thee from all thy
' Sins; in the Name of the Father, and of the
' Son, and of the Holy Ghost: There the Abso-
' lute and Authoritative Act of the Priest is fully and
completely express'd, nor can I give a better Com-
ment thereon than Mr. *Chillingworth's*, a Man of as
Candid, Free, Impartial Thought as ever liv'd.

' Can any be so unreasonable as once to ima-
' gine with himself that when our Saviour after
' his Resurrection, having receiv'd, as himself saith,
' all Power, both in Heaven and Earth, having led
' Captivity Captive, and came then to bestow
' Gifts upon Men, when he, I say, in such a So-
' lemn manner, having first Breath'd upon his Disci-
' ples; thereby Conveying and Insinuating the Holy
' Ghost into their Hearts, Renew'd unto them, or
' rather Confirm'd unto them and Seal'd that Glorious
' Commission which before he had given to *Peter*;
' sustaining as it were the Person of the whole
' Church, whereby he delegated to them an Au-
' thority of Binding and Loosing Sins upon Earth,
' with a Promise that the Proceedings in the Court
' of Heaven shou'd be Regulat'd by theirs on
' Earth; can any Man, I say, think so unworthy
' of our Saviour as to esteem those Words of his
' no better than Complement, for Court Holy Wa-
' ter.

ter. Yet so Impudent have our Adversaries of
 Rome been in their Dealings with us, that they have
 dar'd to lay to our Charge, as if we had so mean
 a Conceit of the Gift of our Saviour's Keys, tak-
 ing Advantage indeed from the unwary practice
 of some Divines, who, out of too forward Zeal
 against the Church of *Rome*, have bended the Staff
 too much the contrary way, and instead of taking
 away the Intolerable Burden of Sacramental, Uni-
 versal necessary Confessions have seem'd to void
 and frustrate all the Use and Exercise of the Keys.

Serm. 1. p. 100.

Matters again standing as you see they do, since
 Christ for our Benefit and Comfort, hath given
 such Authority to his Ministers, upon your un-
 feign'd Repentance and Contrition to Absolve and
 Release you from your Sins, Why shou'd I doubt
 or be unwilling to Exhort and Perswade you to
 make the Advantage of this Gracious Promise of
 our Saviour's? Why shou'd I envy you the par-
 ticipation of so Heavenly a Blessing? Truly if I
 shou'd deal thus with you, I shou'd prove my self
 a Malicious, Unchristian, and Malignant Preacher,
 I shou'd Wickedly and Unjustly, against my own
 Conscience, seek to Defraud you of those Glori-
 ous Blessings which our Saviour hath intended for
 you *ib.*

He closes up afterwards thus.

You see I have dealt honestly and freely with
 you, it may be more freely than I shall be thank'd
 for. But I shou'd have Sinn'd against my own Soul,
 if I had done otherwise, I shou'd have Conspir'd
 with our Adversaries of *Rome* against our own
 Church, in affording them such an Advantage
 to Blaspheme our most Holy and Undeild Religion. *ib.*

I have taken Pains to Recite so much from Mr. *Chillingworth*, because I cou'd not find a Word that cou'd be spar'd; I conclude, as 'tis to no purpose to cite a multitude of Reformers, because the Common Prayer Book testifies their Opinion, by whom it was Compil'd. You have nothing to plead in your behalf, but to find a tolerable Explanation of our Blessed Saviour's Commission to forgive Sins contrary to ours, and consequently, condemn the Church of *England*, or condemn Christianity, but give me leave, Sir, to Explain what a Scandalous Blot you cast upon the Church of *England* in Relation to this Charge.

She sends forth Priests with Counterfeit Commissions to Preach Pardon and Peace in an Authoritative Manner, in a Case in which she has no Authority; she sends her Sick out of the World with strong and lying Delusions, and makes the poor expiring Wretches at their last Gasp give their Assent to the mockery of God, and the most scandalous Forgery that ever was, either this Brand is indelible, or you have been guilty of as great a Crime in traducing that Church, endeavouring to vacate or invalidate a Commission deriv'd from Christ, and perswading Dying Men, to depart without that *Viaticum*, by which alone they can be Sav'd.

How many Priests does the former Notion Damn? And how many Laity the latter?

Your next Attack, p. 91. is upon Benedictions, which you say are direct Blasphemies; but you intirely misrepresent the Question, and then lay about you with all your fury, to beat down your own Shadow, you represent as tho' the Priest or Bishop pretended to such an Absolute Power of Blessing, that he put it out of God's Power to reverse the Sentence, whereas I will be so confident as to say, that no set of Men upon Earth do, or ever did,
pre-

pretend to such Power. But you make Absolutions and Benedictions to be upon the same foot. They are, in your Opinion, assuming an incontrollable Power over God, and Robbing him of his own; whereas all that ever was pretended in that Case, was no more; than that God wou'd ratifie the just and equal Sentences of his Priests upon Earth, as a Superiour Court expects the Determination of an Inferiour one, before it will give a decisive Decree, so Heaven expects the same from Below: What occasion is there for the Infallibility of the Priest. God may see the Hearts of both the Priest and the People, and may be more willing to shed his Blessing upon them, by the Intercession of the Priest, than any other; for what ever mean Opinions have crept into the World of the Priesthood, they were ever look'd upon as the peculiar Favorites of Heaven, and Mediators between God and his People.

But, Sir, I was heartily griev'd to see you fall upon the Church of *England* with so much Fury again. Are Episcopal Benedictions only Solemn Mockeries and Horrid Blasphemies? Are the Benedictions in our Common Prayer no better? I assure you was I in your Place and thought so, I wou'd fling my Mitre and my Crosier away, and Renounce my Bishoprick, and once more Walk on Foot.

The Commission given to the Apostle to Remit Sins, you have limitted only to the Apostolick Age, even that Power, p. 93. you grant, you cannot understand, and, in the succeeding, you have reduc'd to nothing at all; you say, the Words referr'd to something extraordinary, and supernatural in the Apostles, for the propagation of the Gospel. I wou'd ask you whether this was only what *Mr. Chillingworth* calls a Complement? Was it calculated only to entice the People to come into Christianity? This Notion is so Vile, I will not
force

force it upon you ; but you must either take it to your self, or run into an Absurdity, or a Contradiction. The Apostles had either something bestow'd upon them in this Commission, or nothing, had they only Authority to declare, that those God Forgave were Forgiven : This cou'd be no more than any other general Topick to Preach upon, and was included in their Commission to Teach all Nations : Neither will the Words in the Commission, *Whosoever Sins ye Remit are Remitted*, bear any such Sense.

I ask, Whether Men in the Primitive times, and now, in respect to the Forgiveness of Sins, are not in the same condition ? Whether an Old Christian 1700 Years after Christ, has not as much reason to expect all the benefits of Absolution, as a Pagan in St. Paul's Days ?

Thus the Question stands, if any thing Beneficial was Conferr'd by the Apostolick Absolutions, if nothing, you need not recur to Supernatural Powers to solve the Node.

If the Question only remains, that we prove the continuation of such Powers with the Successors of the Apostles ; I answer, that Reason will tell us, what Powers continu'd with the Successors of the Apostles, and what did not ; those Powers which were in aftertimes equally Necessary for the well-being of the Flock of Christ, undoubtedly did continue till after Ages ; those that were not, might expire : But till you can prove that our conditions of Pardon are upon a different foot, than those in the Primitive Days, you cannot prove that part of the Apostolick Commission expir'd.

Neither did all Supernatural Powers expire with the Apostles, we can easily prove, in Tertullian's time, the Power of Exorcising Devils and Evil Spirits, was as common as any other Powers of Christianity ;

ftianity; 'tis mention'd more than once, by *Tertulian*, as (s) particularly in the 33d Chapter of his Book, *De Anima*, and in his Book *De Idololatria*, in his Apology; his Book *De Corona Militis*; perhaps you may Ridicule the Story of the Casting Devils out of the Heathen Oracles, but this has been sufficiently Vindicated against any possibility of Answer, tho' a *Fontenelle* or *Van Dale* shou'd Arise for that End; neither can I see any Reason to conclude, but the same Power remains in a true Church at this Day, tho' it has been abus'd by the vain pretences of Papists, who by their irregular Practices have forfeited that Character.

I wou'd ask how you will prove the Institutions of the Eucharist and Baptism to have extended to Ages after the Apostles, of this I am very positive, whatever Methods you take to prove one, will consequentially and effectually, prove the other.

You are very sure if you cannot tell what those Words of our Saviour meant, you can tell what they did not mean; you are sure they did not contradict the Natural Notions of God, and the Tenour of the Gospel: But if you had stated the Dispute right, our Notions wou'd not have appear'd with such a Bugbear Aspect as you wou'd pretend to make 'em; that God shou'd oblige himself generally to grant Pardon to none but those who Departed in the Peace of the Church, but reserve to himself a Dispensing Power in Cases not Obvious, seems to me no more Monstrous and Blasphemous than the Sacrament of Baptism, for you may thus as well argue against That. Can any one Imagine that God will confine himself from Saving whom

(s) Hanc quoq; fallaciam Spiritus nequam sub Personis de sanctis delitiscens, nisi fallor etiam Rebus probamus, dum in Exorcisemis interdum, aliquem se ex Parentibus hominem sui ad firmat, interdum gladiatorem vel bestiarium Tert. de Anim. c. 33.

whom he pleases, and resign all that Power to the Priest in Baptism, that he shall Save Persons who is himself fallible Weak and Mortal.

You tell us, The Apostles were most proper to Absolve, because God's Pleasure was Infally Communicated to them, which amounts to as great a Solecism, as that the Bishop of *Bangor* shou'd go to the Bishop of *Ely* to know his own Pleasure, if the Apostles only declar'd to God what they before knew (which they certainly must, if they declar'd any thing) you run the Commission upon this strain, *Whosoever Sins I have Forgiven, do you declare to me they are Forgiven*, which has indeed Wire-drawn the Commission to some purpose; such bandying Scripture is like dealing with the Philosopher's Stone; the most true and substantial Gold is Evaporated in Smoke, and the Shadow is scarce worth pursuing.

But you are pleas'd, p. 94. to utter somewhat concerning our Saviour, not altogether pleasing to tender Ears, because they contradict his own express Words: For he says directly, the Son of Man had Power on Earth to Forgive Sins, you say he had not, you endeavour to Explain away his own Words into a mere Nothing, for as there is neither of two Extreains can be Mediums. The Sense you put upon his Words cannot be true, neither can the Rule of Language admit any such Interpretation as yours; for a Power to Forgive Sins cannot be Constru'd by any Just Liberty, a Power only to declare Sins are Forgiven; because, to Forgive, and to declare Forgiveness are utterly different in themselves, and as remotely wide you confess, as Truth from Blasphemy.

You may by this Liberty Explain away Texts of Scripture, nor can I understand how Forgiving Sins can signifie Releasing the Man from the Affliction under which he Labour'd, because such a Forgiveness

giveness of Sins, may as well be Invested in a *Sloane*, or a *Garth*, as any one else: Neither can I understand, that the laying on Hands upon the Sick, and Curing them Miraculously can come under that Notion, because whether a Man is Cur'd Miraculously, or by the common Powers of Nature, he is as much releas'd from the Punishment of Sin, whereas taking away Temporal Punishment is the Accidental, and not the Necessary consequence of Sin; *David* after a sincere Repentance for his Sin in Numbering the People, was put to the Choice of Three Calamities, the Sword, the Famine, and the Pestilence, and the Pestilence accordingly fell to his share; *Adam* Sinn'd and Repented, but the Punishment still remains upon his Posterity.

I do not wonder after these bold steps, to find Excommunication exploded in your 98. Page, all other, Powers of Christianity are gone, and if you had left that standing, your Friends had not said you had made clean Work. All Church Powers are by this time compleatly Levell'd, the Priest has no peculiar Character, he can perform no more in *Sacris*, than every Man can perform by himself; he cannot Bless, he cannot Absolve, nor in short, enjoy a Privilege which the Meanest Wretch in the Streets cannot claim, his Habit is a Distinction owing to the Favour of the Canons, (Canons that have Impiously Invaded the Rights of Freeborn Subjects) but you may see the Priest as well in a Cobler's Stall, or Invested with Bandileers and Musket.

This Notion, I confess, may be relishing to an old *Oliverian*, who remembers with Regret the Restoration of King *Charles II.* he may fancy now his Youthful Blood returning with the Times, and his Priestly Character Restor'd to him, his Aged Limbs acquire a fresh Warmth just ready to mount the Pulpit.

P

I shall

I shall only ask one Question, Whether if you rake that Infamous Book call'd, *The Rights of the Christian Church*, you can find one Notion there which you have not here maintain'd?

All Judicial Power of the Church is intirely taken away, the Canons are no farther obligatory than as they are Confirm'd by the *State*; and the State has no more Power than by Representation; consequently all our Dissenters, even Papists, are upon as firm, and as strong an Establishment as the Church of *England*, there is no such thing as Schism in the World; and as to Religion, we are in a perfect Spiritual State of Nature, we Fight and Contend for Imaginary Powers, Excommunicate and Scatter Damnation about, (as you Elegantly express it) 'tis only Brandishing in the Air, and Encountring with Phantasms of our own Brains.

I confess, Sir, by this time you have brought the Dispute to bear, and convinc'd the World, if your Brethren were of your Mind, that the Nonjurors have some Reason to keep up this Contention, if Christianity stands or falls therewith. But I hope, and am very sure, the next Convocation will vindicate their Honour, and acquit themselves as Men who have Religion at their Hearts, if they have not Power in their Hands.

Your Conclusion is very Bright, viz. If nothing you have hitherto said will Convince the Nonjurors, you can assure them we have an Illustrious Family, &c. I leave the Application to Persons of more distinguishing Judgment than my self, to find out what Relation as Illustrious Family bears, to the Dispute about Church Government. But this I am very sure of, our Blessed Saviour, as mere Man, was of as an Illustrious a Family as is this Day in *Europe*, if Illustrious Blood is at all concern'd in our Question, so I bid you an hearty Farewel.

Charta Ricardi Regis. N. 2.

*Richardus Dei Gratia Rex Angliæ, & Dux Normaniæ, & Aquitania, & Comes Andegavia, omnibus Hominibus suis ierosolymam per mare ituris salutem. Sciatis nos de Communi proborum virorum Concilio fecisse has justitias subscriptas. Qui Hominem in navi interfecerit cum mortuo ligatus projiciatur in Mare. Si autem eum ad Terram interfecerit cum mortuo ligatus in Terra infodiatur si quis autem per legitimos testes convictus fuerit quod cutellum ad alium percutiendum extraxerit, aut quod alium ad sanguinem percusserit pugnum perdat. Si autem de palma percusserit sine effusione sanguinis tribus vicibus mergatur in mare, si quis autem socio ap-
probrium aut convitia, aut odium Dei injicerit, Quot vicitus ei conviciatus fuerit tot uncias argenti ei det. Latro autem de furto convictus tondeatur ad modum campionis & pix bullearis super Caput ejus effundatur, & pluma pulvinaris super Caput ejus excutiatur ad cognoscendum eum, & in prima terra qua naves applicuerint projiciatur teste me ipso apud Chinonem.*



F I N I S.

